

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

COLECTIVO COFFEE ROASTERS, INC.,

Employer,

and

Case 18-RC-272212

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS LOCAL NOS.
494 AND 1220,

Petitioner.

UNION' S OPPOSITION TO EMPLOYER' S OBJECTIONS TO ELECTION

On April 13th, Colectivo Coffee Roasters, Inc., ("Employer") filed its Objections to the mail ballot election conducted from March 9, 2021 to March 30, 2021, with ballots counted on April 6, 2021. The Regional Director issued an Order Directing a Hearing on the Employer's Objections, which was held September 29, 2021. For the reasons stated below, the Employer failed to carry its burden of proof to sustain its Objections. The Regional Director, therefore, must certify the election as a valid expression of employees' support for the Union and deny the Employer's request that the election be overturned.

FACTS

I. Testimony of Ryan Coffel.

The Employer called Ryan Coffel, a current Colectivo co-worker and shift leader at the Logan Café, as its first witness. (Tr. 18). Coffel is a union supporter and member of the Voluntary Organizing Committee ("VOC"). (TR. 19; Employer Exhibit 7). At the time of the election, Coffel confirmed that all co-workers at the Logan Square Café were a part

of a group text message. (Tr. 29; Union Exhibit 4, p. 1; Union Exhibit 6, p. 2). In addition to Coffel, the co-workers in the group text included Caroline Fortin, David Santiago, Rachel Cain, Emmenline Ocampo, Celina Dietzel, and Sarah Beidatsch. (Tr. 24, 30). On or around March 17, 2021 in that group text, Coffel and his co-workers discussed organizing a group outing to the post office to mail their ballots and to that end, Coffel sent a message to the group stating: “Just a reminder- if you want to mail your ballots all together the ballot MUST be sealed BEFORE you get to Logan. Only you can handle your ballot. Let’s do this!!! Let’s make history!!” (Union Exhibit 4, p. 1; Union Exhibit 6, p. 2) (Emphasis Original).

Other messages sent in the Logan Café group chat by co-workers in response to Coffel read as follows:

From Caroline Fortin:

hey y’all! It’s that time of the month where union ballots are [emoji] rolling in [emoji] once we all get ours in the mail, lets figure out an afternoon that works for everyone to meet up and head to the post office together! (and maybe have a little post-vote-drink after?)

mine just arrived, and i’m sure some other [sic] have already gotten theirs or will soon!

From Sarah Beidatsch:

Omg yesyesyes!!! I also got mine and am free any afternoon Sunday-Wednesday

Also SURPRISE I sent this in discord but ya girl is eligible to vote!!

(Union Exhibit 4, p. 2) (Emphasis Original).

From Caroline Fortin:

Friendly reminder if you wanna mail your ballot after work tomorrow!!!!!! bring your envelope signed! sealed! (delivered, I’m yours!)”

“SHOW UP AND VOTE” – bitmoji

(Union Exhibit 4, p. 3) (Emphasis Original).

From Caroline Fortin:

hello lovelies!!! now that we all have our ballots, anyone who's yet to mail it, how does Sunday after close sound to all meet up together? :^)

Union Exhibit 4, p. 4.

Coffel testified that the purpose of those messages was to have as many co-workers as possible meet up and walk to the post office together and mail their ballots individually. (Tr. 29, 33). On the date the co-workers set for their trip to the post office, some, but not all, of the co-workers brought their ballots--signed and sealed--to work. (Tr. 26-27). Coffel stated that the Logan Square Café had an employee's-only closet that was customarily used for co-workers to store their belongings during their shift. (Tr. 44). Coffel placed his ballot, which was inside his bag, in the closet. (Tr. 52). Not only was the closet secured with a bar type latch, but at the time in question, the Logan Square Café was following social distancing guidelines and no one from the public could access that part of the café. (Tr. 44, 52-53). Coffel did not see where any of the other co-workers placed their envelopes, but he did confirm that he never saw their envelopes until the group arrived at the mail box to individually place their ballot envelopes in the mail. (Tr. 46, 48). Coffel never inspected the ballots or asked his co-workers to present their envelopes to him for inspection. (Tr. 54).

Coffel recalled that on the short walk to the post office from the Logan Square café, each voter maintained custody and control of their ballot, and he never actually saw any ballots, just the outer mailing envelope. (Tr. 45-47, 49, 54). Coffel described the process once they reached the mail box with the co-workers forming a single file line and placing their envelope in the USPS mail box one-by-one. (Tr. 48). What is more, Coffel testified that no representatives or agents from the Union were present at any time during the walk

to the post office, during the time the individuals mailed their ballots one-by-one or had any involvement in organizing or influencing the plan expressed in the Logan Square Café group chat. (Tr. 45).

II. Testimony of Jessica Ochocki.

The employer next called Jessica Ochocki, the general manager of the Humboldt Café. Ochocki testified that she discovered an envelope addressed to Nathan Danford in the employee-only office of the Humboldt Café sitting on top of the printer when she was opening the store one morning. (Employer Exh. 1; Tr. 62). The day she discovered the envelope, she was the only employee in the Humboldt Café, as was customarily the case when she would open the café. When she found the envelope addressed to Danford, Ochocki she did not know when or how the envelope arrived Tr. 63-64). However, Ochocki believed the envelope to contain a ballot for the union election. (Tr. 63). She observed that the envelope was sealed with a piece of tape across the back, and she did not open the envelope or ever see its contents. (Tr. 70).

Ochocki took a photograph of the front of the envelope and forwarded the picture to the Company's Human Resources Director, LaShonda Hill. (Tr. 71). Ochocki then placed the envelope in the locked safe within the office. (Tr. 72). Ochocki confirmed that only group lead employees and managers had access to the safe where she secured the envelope addressed to Danford. (Tr. 65-66). Ochocki stated that she did not look inside the envelope and could only guess that it was actually a ballot for the union election. (Tr. 71). After Ochocki had secured the envelope in the Employer's safe, she did not recall who removed the envelope or when that removal occurred but was able to confirm the envelope was removed from the safe at some point. (Tr. 73-74).

III. Testimony of Hilary Laskonis.

Last, the employer called Hillary Laskonis, a co-worker and barista at the Humboldt Café. (Tr. 82). Laskonis has been employed with Colectivo for four years. (*Id.*). The Humboldt Café is Laskonis' primary work location. (*Id.*). Laskonis was an active member of the VOC. (Tr. 83; Employer Exhibit 7). Laskonis testified that the VOC campaigned to empower workers through a union and to convince employees of Colectivo to elect the IBEW as their bargaining representative. (Tr. 83). The IBEW supported the VOC by providing advice, resources, knowledge of the unionization process, support, and preparation to prepare employees for the employer's obstruction to the organizing campaign. (Tr. 83-84). As part of that support, the Union and the VOC would regularly hold a virtual forum where co-workers could join a video chat- known as Social Saturdays- and ask questions and hear from the employee organizers. (Tr. 88). The VOC also had special guests join the virtual meetings on occasion, including Illinois Senator Richard "Dick" Durbin. (Tr. 93). The VOC distributed content to co-workers through their social media posts and handouts. (Tr. 94). Laskonis confirmed that she also personally handed out flyers to co-workers to spread the word about Social Saturdays. (Tr. 90).

Laskonis testified that both the Union and the Employer provided the VOC with information about completing ballots. (Tr. 85, 116-117). Laskonis stated the Employer and the Labor Relations Institute, provided employees, including VOC members with detailed information about the balloting process, how to complete a mail ballot and how to return the mail ballot once complete. (*Id.*). The Union similarly provided the VOC with instructions about how to complete the mail ballots and ensure they were timely returned so that each vote was counted. (*Id.*). Further the VOC created its own content using a

program called Canva- an online content creation software suite- to produce social media posts, including information about how to mail ballots (Tr. 96; Employer Exhibit 5), information about Social Saturdays (Employer Exhibit 4), and memes informing followers of mail ballot deadlines and other information related to the election. (e.g., Union Exhibit 1, p 1-4; Union Exhibit 2 p. 1-5).

Laskonis testified that she did post content on the Collect TiVo Memes Facebook page, which was created long before the organization campaign began, had membership of current and former employees, and was publicly visible online. (Tr. 86-88) The purpose of the Collect TiVo Memes page was to poke fun at the industry as a whole, which was a common thread tying co-workers together. (Tr. 86). Within the Collect TiVo Memes page, Laskonis posted content related to the organizational campaign. (tr. 88). On March 13, 2021, Laskonis posted in that page a message stating, "If you haven't heard about the union from the organizers themselves, come to our Social Saturday video call tonight at 7pm! Its open to anyone eligible to vote in the union election. Zoom link to join us is in comments." (Employer Exhibit 2). Laskonis then commented on that post saying, "Feel free to DM [Direct Message] me with any questions/concerns about attending. We don't care if you're planning to vote yes, no, or you're not sure! Any question is encouraged." (Employer Exhibit 2).

In addition to the Collect TiVo Memes page, Laskonis also posted in a Facebook group called CCR411 for which she served as administrator. (Tr. 104). Unlike the Collect TiVo Memes page, the CCR411 page was not visible to the public and was originally intended to provide co-workers with information about COVID-19 health and safety. (Tr. 104, 107). During the mail ballot election Laskonis posted instructions on how an

employee could contact the NLRB to receive a replacement ballot. (Union Exhibit 3, p 1). On March 13, 2021, Laskonis posted in the CCR411 page information related to Social Saturdays and advised that Union representatives would be joining. (Union Exhibit 3, p. 2). Laskonis posted a similar message the day before and on March 6, 2021. (Union Exhibit 3, p. 3-4). Laskonis also posted content from the Colectivo Colectivo social media page into the CCR411 Facebook page. (Union Exhibit 3, p. 11, 14). On March 30, Laskonis posted a message in CCR411 stating, "FYI if you have not submitted your ballot you can still hand deliver it to the NLRB until 4:30 today. 310 W Wisconsin Ave #450, Milwaukee, WI 53203." (Union Exhibit 3, p. 15).

At least two co-workers reached out to Laskonis regarding their attempts to personally deliver mail ballots to the NLRB on the last day of the election. (Tr. 108; Employer Exhibit 12, p. 1-2). In responding to co-workers, members of the VOC directed inquiring employees to the Board's Milwaukee Region Office and coordinated with Union representatives in order to provide those employees with accurate information related to where to go to drop off the mail ballot. (Employer Exhibit 12, p. 1-2). Ballots of those individuals were turned into the Milwaukee Region Office. (Employer Exhibit 12, p. 2). At no point did Laskonis ever handle any co-worker's ballot other than her own. (Tr. 116). Further, when speaking with employees who were attempting to hand deliver their mail ballots, Laskonis was never physically with those individuals, instead, she was messaging them in real time. (Tr. 130-131).

IV. Testimony of Briana Crea.

The Union called Briana Crea, a former Colectivo co-worker who has since moved out of state and is currently working for a different company. (Tr. 138). While Employed

at Colectivo, Crea was also a member of the VOC. (Tr. 139-140; Employer Exhibit 7). Crea, as a member of the VOC, received communication from at least one voter who was attempting to hand deliver their mail ballot to the NLRB's Milwaukee Subregional Office. (Tr. 141-143; Union Exhibit 7, Company Exhibit 12, p.1). Crea then posted a message in the VOC group chat stating, "My yes vote literally cant get in the building to drop off his ballot and hes running out of patience can anyone call and help?" (Employer Exhibit 12, p. 1). Crea testified that she did not know whether the voter had actually voted "yes" for the Union, as she never saw his ballot or asked him how he voted. (Tr 143-144). Instead, Crea inferred that it was likely this employee voted yes because that voter was reaching out to the VOC, which had consistently taken a pro-union position throughout the campaign. (*Id.*). In addition, Crea had spoken with that person before, and he had communicated his support for the Union. (*Id.*) Crea never met with that voter on the date he attempted to hand deliver the mail ballot to the Milwaukee Subregional Office. (Tr. 146-147) Crea did, however, speak with that individual later that day because both employees were scheduled to work on the same shift and he confirmed that he had delivered his ballot to the Subregional office. (*Id.*).

ARGUMENT

I. THE EMPLOYER'S OBJECTION TO THE ELECTION FAILS AS A MATTER OF LAW AND FACT.

A. The Employer Has the Burden to Establish a *Prima Facie* Case of Ballot Solicitation Sufficient to Set Aside the Election.

In, *Professional Transportation, Inc.*, the Board stated, "An objecting party has the duty to furnish evidence or description of evidence that, if credited at a hearing, would warrant setting aside the election. 370 NLRB No. 132 at 7 (2021) (Citing *Transcare New*

York, Inc., 355 NLRB 326, 326 (2010). In that same case, the Board, for the first time, resolved the issue of “whether mail-ballot solicitation constitutes objectionable conduct,” that is, when a party “*offers to collect an employee’s mail ballot.*” *Professional Transportation, Inc.*, 370 NLRB No. 132 at *1, *3. The Board reasoned, “When a party offers to collect a voter’s ballot it asks the voter to disregard the voting instructions, which instruct the voter *not* to permit any party to handle or collect his or her ballot.” *Id.* (Emphasis original). The Employer’s objection here alleges that during the election campaign and after ballots were mailed there was improper solicitation of ballots by union supporters and members of the Voluntary Organizing Committee (VOC). The Employer, however, has failed to present any credible evidence supporting its claim and its Objection to the election must be dismissed and the Union must be certified.

The test to determine if a party’s conduct constitutes objectionable solicitation of mail-ballots is, “whether it impugns the integrity of the election and casts doubt on the secrecy of the employees’ ballots.” *Id.* at 4. Whether a party’s conduct warrants setting aside the election is determined by “whether a statement could be reasonably interpreted as a ballot solicitation (*an offer to collect the ballot*).” *Id.* at 6 (Emphasis added). “By contrast, simply asking if employees have received their ballots or offering to assist them with understanding the election instructions could not reasonably be interpreted as ballot solicitation.” *Id.* at fn. 22. Since as the Board acknowledged, “The Board’s election instructions (Form NLRB-4175) state that parties are not permitted to handle, collect, or mail ballots, *but do not prohibit parties from offering to help employees understand the election process.*” *Id.* (emphasis added).

In *Professional Transportation, Inc.*, the employer's offer of proof of unlawful solicitation alleged that a union agent left a voicemail for an eligible voter stating:

I'm from the Union. I talked to you in the yard a couple times and I just wanted to see if you got, if you guys got your ballot today. If you can give me a call back. . . . And if [you] need help filling it out, not filling it out, but if you need help on [sic] getting it sent back one way or the other, I can help you with that. Just because it's so complicated. But anyway . . . I hope to talk to you soon. Thank you. Have a good day hun [sic], bye bye.

370 NLRB No. 132 at 1. The employer further asserted in its offer of proof that another employee would testify, "that a representative from the Petitioner called him and offered to help complete his mail ballot and to collect and return the ballot for him." *Id.* Based on the Employer's offer of proof, the Board concluded, "the evidence of solicitation is clear: the offer was to help get the ballot sent back, which is reasonably understood as an offer to collect the ballot to mail it," and found the conduct described to constitute a prima facie case of solicitation if credited at a hearing. *Id.* at 6.

The Employer here failed to present any evidence that comes even remotely close to that in *Professional Transportation, Inc.*, *supra*, the Board deemed sufficient to constitute a prima facie case of ballot solicitation. The record here is devoid of any testimony or exhibit which establishes or even suggests that the Petitioner offered to collect and/or mail eligible voters' ballots. The record, to the contrary, is replete with evidence that the Union repeatedly informed eligible voters in social media posts as well as through text messages and group chat messages that only the voter could handle their ballot. For example, Union Exhibit 1 which consists of four graphics, tells voters: "If you live in Milwaukee there is still time to hand-deliver your ballot – This must be done by the voter to ensure a lack of (sic) shannanigans." (U. Exh. 1, p. 2 of 4)(emphasis supplied). In a group text chat between Logan Square Café employees, Ryan Coffel, a VOC member

gave his co-workers the same instruction in connection with a planned group trip to the post office: “Just a reminder – if you want to mail your ballots all together the ballot MUST be sealed BEFORE you get to Logan. Only you can handle your ballot. Let’s do this!!! Let’s make history!!” (U. Exh. 4, p. 1 of 4). Then again in a group chat message IBEW representative Joe DiMichele reminded VOC members that only the voter could return their ballot by hand delivery: “Forgot to mention, the ballots have to be delivered by the voter. Other voters cannot handle their ballots.” (U. Exh. 7, p. 4 of 6).

Colectivo failed to present any evidence that any IBEW representative or VOC member ever handled a voter’s ballot other than their own or offered to do so. The Company has therefore failed to meet its burden to establish a prima facie case of solicitation. The evidence in fact demonstrates that the Union’s social media posts and statements in text conversations were not merely lip service and that the VOC members ensured those instructions were carried out in practice. Colectivo elicited evidence from Ryan Coffel, VOC member and Logan Square Café employee, that when he and several of his co-workers gathered to mail their ballots, each carried their own ballot envelope to the post office and placed their own ballot into the mailbox. (Tr. 48). Likewise, when VOC member Brianna Crea was contacted by a co-worker seeking information on the location to hand deliver their ballot, she did nothing more than connect with him through text and phone communications regarding the physical address of the building where the Subregion 30 office is located. (Tr. 141-143; Union Exhibit 7, Company Exhibit 12, p.1). She did not deliver his ballot for him or even accompany him to the office as he attempted hand-delivery. (Tr. 147).

In short, every example the Company presented at hearing as claimed evidence of solicitation failed to prove solicitation and instead, demonstrated that voters handled their own ballots and the Union at all times observed the Board's standards for a fair election. The Board has identified examples of objectionable conduct in mail ballot elections where the collection of ballots warrant setting aside the election, but Colectivo failed to produce any evidence consistent with these standards that justify sustaining its Objection. In *Fessler & Bowmann*, for example, a union business agent went to a work site to distribute t-shirts during the course of a mail ballot election. 341 NLRB No. 122 at 932. While at the site, an employee told the business agent, "Hey, I got something for you." *Id.* The employee returned and, "handed the ballot, which was sealed inside the return envelope supplied by the Board, to [the business agent]." *Id.* "[The business agent] took [the employee's] sealed mail ballot, put it in his truck, and continued to talk to employees at the job site. *Id.* "[The business agent] went to a post office several hours later and mailed [the employee's] ballot." *Id.*

In that same case, a union agent approached an employee and asked if the employee had voted and the employee confirmed that he had filled out a ballot and that the ballot was sitting in the employee's truck. *Id.* The union agent then said, "I could hand it in for you, if you want" and collected that employee's ballot. *Id.* Additionally, a union agent called another employee and, "offered to come out to that jobsite and pick up [another employee's] ballot," although that employee declined the union agent's offer. *Id.* at 932-933.

The Board in *Fessler & Bowmann* determined that, "where mail-ballot collection by a party occurs, we find it casts doubt on the integrity of the election process and

undermines election secrecy. For this reason, we hold that where a party collects or otherwise handles voter's mail ballots, that conduct is objectionable and may be a basis for setting aside the election." *Id.* at 934. In applying that standard to the conduct of the union agents, the Board found, "one party to the election obtained exclusive control of two voters mail ballots for an extended period of time after they were cast. Such conduct casts doubt on the validity of these two ballots." *Id.* However, the Board explained, "Under well-established Board law...union conduct that causes an employee to signal his favor or disfavor of the union does not, without more, constitute objectionable conduct. Specifically, a union may ask employees whether they favor the union so long as it does not coerce employees while conducting its poll." *Id.* (citations omitted.).

Without evidence that a party handled or collected voters' ballots however, there is no solicitation even if there is contact with a union representative. Indeed a Regional Director found that conduct of union representatives who offered to drive voters to the post office was not objectionable conduct. *FDR Services Corp.*, NLRB Regional Director Decision, 29-RC-215193, 2020 BL 148960 (April 14, 2020, King). There, Regional Director Kathy Drew King wrote:

I also note that there is no evidence that the Union representatives sought to have the employees turn over their ballot to the Union's representatives. Rather, the offer was to bring the employee to the post office so the employee could mail the ballot. Accordingly, there is insufficient evidence of any solicitation of mail ballots when Union representatives offered to drive voters to the post office, and I agree with the Hearing Officer's finding that such conduct is unobjectionable. See e.g. *Grill Concepts*, 2019 BL 240531, 2019 WL 2869823 (NLRB Case No. 31-RC-209589, June 28, 2019) (where the evidence established that union representatives offered to drive eligible voters to the post office to mail their ballots, the Board did not find that any mail ballot solicitation occurred and affirmed the regional director's decision to certify the union). Accordingly, I reject the Employer's contention that the Hearing Officer erred by finding the Union representatives' offers to drive employees to the post office unobjectionable.

Id.

Here, the Employer failed to demonstrate a prima facie case of objectionable solicitation that warrants overturning the election. The Board's holding in *Professional Transportation, Inc.*, is dispositive. In that case, the Board clearly articulated that in order for a party to establish objectionable conduct warranting overturning the results of the election, that party bears the burden to prove an offer to collect ballots of eligible voters. Determining if a party's conduct is objectionable turns on, "whether a statement could be reasonably interpreted as a ballot solicitation (*an offer to collect the ballot*)."
Professional Transportation, Supra. The Employer failed to present any evidence that any VOC member or IBEW representative ever offered to collect and mail or deliver an eligible voter's ballot. Likewise, the Employer produced no evidence that any VOC member ever touched any ballot other than their own or that any IBEW representative ever collected a voter's ballot. Without such evidence the Employer cannot meet its burden of proof and has not established any objectionable ballot solicitation. The Employer's Objection must therefore be dismissed.

There is no dispute that the VOC notified employees of the address and phone number of the Region in the event an eligible voter did not receive their ballot kit or wished to hand deliver their signed ballot. Indeed, just as the record is replete with evidence that the VOC expressly told voters only they could handle their ballots, it is likewise replete with social media posts giving the phone number and address of the Subregion 30 office (U. Exh. 1, p. 3; U. Exh. 2, p. 11; U. Exh. 3, p. 1, 11, 15; U. Exh. 5, p. 1). Nor is there any dispute that the VOC posted information regarding when ballots were due, made posts urging co-workers to vote and repeating instructions contained in the voting kit itself about the election and ballot completion process (U. Exh. 3, p. 11). None of that conduct,

however, constitutes ballot solicitation or is otherwise objectionable or a basis for setting aside the results of the employees' vote. As the Board clarified in *Professional Transportation Inc.*, "[S]imply asking if employees have received their ballots or offering to assist them with understanding the election instructions could not reasonably be interpreted as ballot solicitation. The Board's election instructions...state that parties are not permitted to handle, collect, or mail ballots, but do not prohibit parties from offering to help employees understand the election process." 370 NLRB No. 132, at fn. 22 (2021). Thus, contrary to the Employer's suggestion, the Union's social media posts advising employees to "Put an 'x' in the 'yes' box if you want a union and Colectivo, or an 'x' in the 'no' box if you don't want a union," then telling employees not to make any other markings and to place their ballot in the blue envelope and seal," were entirely permissible. (U. Exh. 3, p. 11). In fact all of the Union's communications with employees as presented at hearing, verbal and written, constituted permissible conduct. The Employer's evidence, at most, demonstrates the VOC engaged in conduct explicitly allowed by the Board in footnote 22 of the *Professional Transportation* decision.

Specifically and consistent with the Board's description of permissible election conduct, the Employer established that Coffel organized a group of voters to meet and walk together to the post office to place their ballots in the mailbox. The evidence did not establish that during that group outing any employee ever handled, collected, or mailed another voter's ballot. Moreover, the Employer failed to prove any solicitation by any employee or party to handle, collect, or mail another voter's ballot. The Employer's argument that Coffel's conduct is objectionable flies in the face of Board precedent and the Regional Director's decision in the *FDR Services Corp.*, case. In that case, union

representatives went as far as driving voters to the post office to mail their ballots. Here, Coffel's conduct is far more benign. First, he is not a Union representative, he is an employee. Second, no Union representative directed Coffel to organize a walk with co-workers to the mailbox. Last, Coffel did little more than organize the walk, he did not offer any assistance with transportation, provide any incentive to coerce other employees to join him or handle any co-worker's ballot envelope. His conduct is certainly protected and falls far short of objectionable conduct that the Board considers warranting setting aside the election.

Moreover, despite claiming in its original Objection to the Election that voters and Union supporters gathered to complete and mail ballots during the Union's Social Saturday events, the evidence actually presented at hearing established that the Social Saturdays were entirely virtual thus precluding any mailing of ballots during the events. Further, witnesses who testified to having attended one or more of the Social Saturdays confirmed that the balloting process was not discussed and no one displayed a ballot on the screen or went through a ballot. (Tr. 93).

The evidence further established that Laskonis' and Crea's actions throughout the campaign were at all times appropriate and consistent with the Board's standards. Again, the Employer established that these employees provided co-workers with accurate information about their ballots, including instructions and information about how to obtain a new ballot if an employee had not received one in the mail. However, there is no connection between this legal conduct and objectionable conduct that warrants overturning the election. Instead, Laskonis' and Crea's actions are a valid exercise of protected concerted activities that provided their co-workers with information to help

understand the election process. The Employer never established that any VOC member or Union official touched, saw, handled, collected or otherwise solicited ballots. Moreover, as stated by the Board in *Professional Transportation*, no reasonable person could interpret any of the VOC communications admitted into evidence as an offer to solicit ballots because the information was merely reiterating and explaining the NLRB mail-ballot instructions. The Employer failed to sustain its burden to prove ballot solicitation and its Objection must be overruled.

B. The Employer Failed to Establish Nathan Danford's Ballot Was Handled by the Union and That Such Conduct Is Sufficient to Set Aside the Election.

In its Objection to the Election, the Employer alleged that Nathan Danford's ballot "was handled by people other than Mr. Danford," and that "the Petitioner's mishandling of the ballot calls into question the validity of Danford's vote, other votes, and whether the Petitioner's behavior unlawfully affected the outcome of the election." (Employer's Objections to Election, p. 2). Moreover, the Employer alleges, "In this case, Petitioner was successful by causing Danford's ballot to be handled by others." (*Id.*, p. 3). Thus, the Employer's objection regarding Danford's ballot can be summarized as an allegation that the Union mishandled his ballot and caused it to come into the Company's possession.

The Employer's allegation is destroyed by the very evidence the Employer solicited at the hearing. In support of its claim regarding Danford's ballot, the Employer called the Humboldt Café Manger, Jessica Ochocki. However, unlike what Colectivo asserted in its Objections to Election, Ochocki confirmed that no employee brought Danford's ballot to her attention; instead, she testified that she was the only person in the Humboldt Café when she opened for business the day she found what appeared to be Danford's ballot kit in the back room. In the course of opening the Café, Ochocki discovered the envelope

addressed to Danford, took a picture of the front of the envelope and sent that photo to the Company's Human Resources Director. Ochocki testified that she then placed the envelope in a locked safe at the Humboldt Café. Ochocki also confirmed that the envelope was sealed with a piece of tape across the back flap and that she did not open the envelope and could not determine what, if anything, was inside the envelope addressed to Danford.

Conspicuously absent from the evidence and testimony elicited by the Employer at the hearing is any connection between a Union representative or any other union supporter and the Danford envelope. The only evidence the Employer established was that Ochocki placed an envelope addressed to Danford in a locked safe in the Humboldt café. Not only did the Employer fail to demonstrate that the envelope actually contained a ballot- a necessary prerequisite to sustain the Employer's objection- it also failed to present evidence that anyone other than Ochocki touched the envelope. Thus the Employer's case absolutely failed to establish any connection at all between the Union and Danford. The Employer did not provide any evidence of ballot collection, solicitation or interference by the Union as it relates to Danford's envelope. Indeed, Ochocki was the only witness who gave any testimony about the Danford envelope and that established nothing more than that a sealed envelope address to Danford from the Subregion 30 office was in the Humboldt café.

Contrary to the Employer's claim in its written Objection, the evidence presented at hearing failed to establish any evidence of Union interference or misconduct in connection with Danford's ballot as Colectivo failed even to prove that the envelope Ochocki found contained a ballot or that any VOC member, IBEW representative or union

supporter ever touched the envelope. Without establishing these basic propositions there is no basis for the Employer's claim that the existence of an envelope addressed to Danford from Subregion 30 in the Café warrants setting aside the election.

Even if there was some evidence of mishandling or misconduct by the Union- which there is none- with respect to the envelope addressed to Danford, the Employer's objection fails as a matter of law because the Employer did not and could not establish that the alleged misconduct effected enough votes to alter the outcome of the election. *See Fessler & Bowman, Supra* at 935. In *Fessler & Bowman* the Board reiterated its long-standing analysis of whether objectionable conduct warrants overturning the results of an election. "The relevant inquiry is whether the objectionable conduct had a tendency to interfere with the employee's freedom of choice and 'could well have affected the outcome of the election.'" *Id.* (Quoting *Cambridge Tool & Mfg. Co.*, 316 NLRB 716 (1995); see also *Metaldyne Corp.*, 339 NLRB 352 (2003)). In order to determine if objectionable conduct affects the outcome of the election, the Board will assume that any challenged ballot would change to favoring the objecting party. *Fessler & Bowman, Supra* at 935.

Here, the Employer did not establish that any alleged misconduct affected any other voter in any way. Although the Employer's Objection alleged that the handling of Danford's ballot affected the entire Humboldt Café voting population, it offered zero evidence to support that allegation. The Employer did not call any witness other than Ochocki, who confirmed that she alone handled the Danford envelope. No other witness established that they handled the envelope or that the treatment of the envelope ever became known to other voters. Thus, it is impossible to infer that Ochocki's handling of the envelope addressed to Danford had any interference with other employee's freedom

of choice in the election. Moreover, even if the Danford ballot is assumed to be cast in favor of the Employer, one vote is not enough to affect the outcome of the election. The Employer's case failed to carry its burden to establish any evidence warranting overturning the election on the basis of the Danford envelope.

C. The Employer's Position Upsets Decades of Board Precedent that Employees Are Permitted to Engage in Protected Concerted Activity.

The National Labor Relations Act, Section 7 states, "Employees shall have the right to...engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection...". There is no doubt that when employees engage in concerted activities to achieve mutual aid or protection, - e.g., electing a representative to bargain over terms and conditions of employment, those activities are protected. Moreover, the Board has analyzed whether objectionable conduct warrants overturning an election from the perspective of "parties." *E.g., Professional Transportation, Inc., Supra; Fessler & Bowmann, Supra.* Here, the Employer's presented testimony of Colectivo employees, not any employee of the IBEW, the party adverse to the Employer. Moreover, in only calling employees, the Employer failed to elicit testimony sufficient to demonstrate any evidence that the Employees were agents of the Union. Although Coffel, Laskonis, and Crea confirmed that they are VOC members, being a VOC member does not sever Section 7 protections or establish that VOC members are Parties. Instead, these employees remained, at all times, employees, not parties. Laskonis and Coffel both testified that the VOC received support from the Union but that support did not operate to transform VOC members into Union representatives. Indeed, the VOC developed its own social media post content, distributed content and communications to co-workers and

organized events (e.g., Coffel's effort to get out the vote) all without direction or coordination with the Union.

Moreover, the Employer failed to establish misconduct by third parties -i.e., employees- that warrants setting aside the election. In *Westwood Horizons Hotel*, 270 NLRB 802 (1984), the Board set forth its analytical framework to determine if third-party conduct rises to the level of objectionable conduct. The Board explained its heightened standard: "because there is no evidence of union involvement in the misconduct, the test to be applied is whether the misconduct was so aggravated as to create a general atmosphere of fear and reprisal rendering a free election impossible." *Westwood Horizons Hotel*, *supra*. The Board continued:

We have held, however, that whether a threat is serious and likely to intimidate prospective voters to cast their ballots in a particular manner depends on the threat's character and circumstances and not merely on the number of employees threatened. In determining the seriousness of a threat, the Board evaluates not only the nature of the threat itself, but also whether the threat encompassed the entire bargaining unit; whether reports of the threat were disseminated widely within the unit; whether the person making the threat was capable of carrying it out, and whether it is likely that the employees acted in fear of his capability of carrying out the threat; and whether the threat was "rejuvenated" at or near the time of the election.

Id. (Citations Omitted). Here, the Employer has not established that any threat was ever made such that third-party conduct did or even could have influenced the election. Thus, the Board's inquiry regarding the employees' conduct in furtherance of mutual aid and protection- i.e., organizing an effort to election a union as the employee representative to engage in bargaining over terms and conditions of employment, must end with the determination that the Employer failed to establish any objectionable third-party misconduct.

D. The Employer's Suggestion that Laskonis Made an Unlawful Appeal to Racial Prejudice is Wholly Unsupported.

Although not an allegation made in its Objections to Election, the Employer at hearing argued that Laskonis was responsible for inflammatory appeals to racial prejudice which warranted setting aside the election. Specifically, the Employer directed Laskonis to a social media post which stated, "We will bargain for: addressing systemic racism within Colectivo." (Employer Exhibit 6, p. 2) Laskonis testified that the post was in direct response to information sent out from the Employer's official email account that was highly offensive to co-workers and derogatory to the Union (Tr. 123). (see Employer Exhibit 6, p. 2 –"Colectivo's management has leveled criticism of the IBEW as a 'bunch of old rich white men.' Also we have heard concerns from our fellow workers about the lack of racial diversity on this campaign that we need to address."). Laskonis further testified that the post was "related to wanting the Company to do better in regard to hiring practices and other issues that had implications as far as systemic racism." (Tr. 126). In further explanation for the reasons for the post, Laskonis cited the Company's response to the murder of George Floyd as a basis for the employees' concerns. (Tr. 125).

In general, the Board examines allegations of impermissible racial appeals under the standard laid out in *Sewell Mfg. Co.*, 138 N.L.R.B. 66 (1962), in which the Board "established that 'a deliberate, sustained appeal to racial prejudice' could create conditions that 'made impossible a reasoned choice of a bargaining representative.'" *Case Farms of N.C., Inc. v. NLRB*, 128 F.3d 841, 845 (4th Cir.1997) (quoting *Sewell*). However, "the Sewell standard applies only if an appeal to racial sentiment is inflammatory." *Food and Commercial Workers Local 400 v. Ashland Facility Operations, LLC*, 701 F.3d 983, 991 (4th Cir. 2012). "An appeal to prejudice is inflammatory if it "can

have no purpose except to inflame the racial feelings of voters in the election.” *Id.* (citations omitted). The *Sewell* test standard is based on the recognition that "matters of race and ethnicity will often be important to a representation campaign... Consequently, while '[a]ttempts to portray an employer as bigoted have...been found to be inflammatory in certain extreme cases,' in general, appeals to racial prejudice will not be a basis for overturning an election so long as they are made in the context of an effort to raise workplace grievances or other issues of legitimate concern to employees.” *Id.*

In evaluating allegations of objectionable racial appeals, the Board and courts distinguish between conduct that appeals to racial prejudice and that which attempts to raise consciousness of election issues. For example, in *NLRB v. Sumter Plywood Corp.*, 535 F.2d 917 (5th Cir. 1976), *cert. denied*, 429 U.S. 1092 (1977), the court examined the distribution by the union to a mainly African-American electorate a cartoon depicting “Uncle Tom” as an obstacle to unionization. A union organizer proclaimed that the union could help blacks out of “slavery.” The Fifth Circuit found these actions acceptable efforts to raise the consciousness of the voters, and not efforts to incite racial prejudice. *Id.* at 929.

Applying the Board and Court’s established precedent, there is no basis to overturn the election on the basis of an appeal to racial prejudice. Laskonis explained that the post in question was in direct response to a racially offensive email sent by the Employer and sought to inform the electorate that the Union would bargain over addressing systemic racism in the workplace. The topic of racism in the workplace was clearly a *bona fide* concern of employees as illustrated by Laskonis’ testimony regarding the unity campaign and related petition delivered to the Company by co-workers. The campaign literature

the Company cites as a basis for this claim does nothing more than highlight the Union's intention to address employee concerns about diversity and racism in the workplace that had already been raised in response to Company actions. Nothing Laskonis, any other VOC member, or Union Representative said, did or posted during the election campaign comes anywhere close to those cases the Board has found conduct inflammatory and cause for setting aside an election based on unlawful appeals to racial prejudice. The Employer's suggestion to the contrary ignores this precedent and the insufficient factual basis developed at the hearing, which falls far short of the circumstances needed to sustain such an allegation. The Employer's claim asserted at hearing that the Union engaged in unlawful racial appeals must be rejected.

CONCLUSION

In light of the foregoing, the Employer has failed to establish any credible evidence demonstrating objectionable conduct sufficient to overturn the election. As such, the Employer's objections should be overruled, and the Union certified.

Dated this 6th day of October, 2021.

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UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 18 – SUBREGION 30

COLECTIVO COFFEE ROASTERS, INC.,

Employer,

Case No. 18-RC-272212

and

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS LOCAL NOS. 494
AND 1220,

Petitioner.

**COLECTIVO COFFEE ROASTERS, INC.’S POST-HEARING BRIEF IN SUPPORT OF
EMPLOYER’S OBJECTIONS**

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INTRODUCTION

The results of the election in this matter must be overturned due to Union agents' objectionable conduct, which included asking eligible voters to bring their ballots to work so they could vote together as a group, mishandling voter ballots, directing voters to privately contact Union representatives during the voting period with questions about ballots, discussing ballots with eligible voters during private group meetings after ballots had been distributed, and tracking Union "yes" votes. The unlawful solicitation of mail ballots and other misconduct by agents of the International Brotherhood of Electrical Workers Local Unions 494 & 1220 (the "Union" or "Petitioner"), during the March 2021 representation election, impugns the integrity of the election, casts doubt on the secrecy of a determinative number of ballots, and warrants setting aside the closely divided election results. Considering the ubiquity of the Union's misconduct, the Board's "laboratory conditions" standard for conducting representation was not met. *See General Shoe Corp.*, 77 NLRB 124, 127 (1948) (holding that the Board's objective is to ensure elections are run "under conditions as nearly ideal as possible—so called laboratory conditions—to provide employees the opportunity to express their uninhibited desires regarding representation"). Through specific evidence presented during the September 29, 2021 Hearing on Employer Objections, Colectivo Coffee Roasters, Inc. ("Colectivo" or "Employer") has satisfied its burden of establishing facts that raise a "reasonable doubt as to the fairness and validity of the election." *Patient Care of Pennsylvania*, 360 NLRB No. 76 (2014), *citing Polymers, Inc.*, 174 NLRB 282, 282 (1969), *enfd.* 414 F.2d 999 (2d Cir. 1969), *cert. denied* 396 U.S. 1010 (1970). Accordingly, the Regional Director should sustain both of Colectivo's objections, set aside the election results, and order a rerun election.

BACKGROUND

I. Procedural Background.

On February 3, 2021, the Union filed a petition to represent most of Colectivo's nonmanagement employees for purposes of collective bargaining. (Board Exhibit (hereafter "B. Ex.") 1(m).) Pursuant to a Stipulated Election Agreement, the Board conducted a mail ballot election from March 9, 2021 through March 30, 2021, with an initial ballot count taking place on April 6, 2021 (B. Exs. 1(e) and 1(m).) The initial vote tally showed a tied result with 99 votes cast against the Union, 99 votes cast for the Union, and 16 challenged ballots. (*Id.*) On April 13, 2021, Colectivo timely filed two objections alleging unlawful ballot solicitation by the Union. (*Id.*) Colectivo specifically stated its objections, as follows:

Objection 1: The Petitioner wrongfully handled the ballot of Nathan Danford after repeatedly soliciting voters to provide assistance in completing and handling their ballots.

Objection 2: The Petitioner's solicitation to assist voters complete and handle their ballots and its sponsorship of meetings for this purpose is a sufficient basis to set aside the election.

(*Id.*) On May 7, 2021, the Regional Director issued a Decision and Order regarding the challenged ballots, which resulted in the Union gaining an additional 7 votes during an August 23, 2021 supplemental ballot count, bringing the Union's total vote tally to 106. (B. Ex. 1(m).)

On September 2, 2021, the Regional Director concluded that the evidence submitted by Colectivo in support of its objections could be grounds for overturning the election. (*Id.*) Consequently, the Regional Director ordered the parties to appear at an evidentiary hearing before a Hearing Officer on September 29, 2021, to present evidence regarding Colectivo's objections. (*Id.*) Both parties appeared at the September 29, 2021 Hearing; the evidence presented at Hearing is summarized in the Statement of Facts, below.

II. Statement of Facts.

A. The Union establishes an agency relationship with a group of Colectivo employees who self-identified as the Voluntary Organizing Committee.

On or before August 6, 2020, twelve Colectivo employees joined together to form a union organizing committee, which was directly affiliated with the International Brotherhood of Electrical Workers Local Unions 494 and 1220. (Employer Exhibit (hereafter “Er. Ex.” 7.) The committee’s formation was announced to the Company by two Union leaders, Dean Warsh and John Rizzo, who wrote a letter to Colectivo on behalf of the committee (Hearing Transcript (hereafter “Tr.”) at 20:15-21:1; Er. Ex. 7.) The employee members of the organizing committee refer to the committee as the “Voluntary Organizing Committee” or “VOC.” (Tr. at 19:4-12:17.) The VOC’s objectives were to unionize Colectivo’s cafes and to convince employees of Colectivo to elect the IBEW as their bargaining representative. (Tr. at 20:1; 83:6-17.)

During the course of the Union’s organizing campaign, members of the VOC and representatives from IBEW met together between once and twice per week. (Tr. at 22:20-25.) The IBEW provided the VOC with resources and material assistance and support during the union campaign, including access to IBEW’s paid Zoom account. (Tr. at 83:18-23, 114:11-13.) The IBEW also provided content for the VOC to handout to Colectivo employees, including information about ballots and the balloting process. (Tr. at 21:22-22:6.) Whenever the VOC believed the IBEW could provide information that would be helpful to Colectivo employees, it asked IBEW to provide such information. (Tr. at 84:24-85:2.) The IBEW also provided the VOC with campaign materials designed to support unionization at Colectivo (Tr. at 84:16-19, 85:9-12) and approved draft flyers and information prepared by the VOC before dissemination to Colectivo employees. (Tr. at 110:15-112:5; Er. Ex. 12 at 3.) During the union election, VOC member, Hillary Laskonis, even paid for a subscription to create an online “link tree” where she

posted links to information from the IBEW. (Tr. at 91:12-92:9.) The VOC, in turn, reviewed information prepared by the IBEW before it was sent to Colectivo employees who were on the VOC's email list. (Tr. at 12:5-13:7; Er. Ex. 12 at 5-8.) At least one VOC member, Zoe Muellner, was also a paid employee of the IBEW. (Tr. at 141:23-142:2, 134:24-135:9.) In March 2021, the IBEW sent a formal letter to Colectivo's employees after mail ballots had been distributed, which notably refers to IBEW organizers and VOC members interchangeably. (Er. Ex. 12 at 5-8.) Finally, on Saturday's during the representation election mail-balloting period, IBEW and the VOC jointly hosted virtual events for eligible voters called "Social Saturdays" where filling in ballots, reminding coworkers to fill in ballots, and dropping off ballots were all discussed. (Tr. at 149:3-150:17, 151:1-10, 152:5-7; Er. Ex. 12 at 5-8.)

B. The Union opens the door to widespread ballot solicitation through repeated ballot-focused communications to eligible voters during the mail ballot election.

Throughout the union organizing campaign and representation election, the Union, through its VOC agents, communicated and disseminated numerous messages relating to election ballots through multiple communication channels. (Union Exhibits (hereafter "Un. Exs.") 1-3,5; Er. Exs. 2-6.) First, the VOC communicated extensively with eligible voters through social media. (*Id.*) The VOC's primary "social media people" included Zoe Muellner (also an IBEW employee) Kait Dessofoy, and Emi Mendez. (Tr. at 95:20-96:6.) The VOC maintained an Instagram account where it frequently posted content related to the union election and mail ballots. (Tr. at 94:17-20, 96:23-97:2; Er. Ex 5.) In addition to the social media communications from the VOC and IBEW's "social media people," VOC member, Hillary Laskonis, also posted numerous ballot-related communications to social media. (Tr. at 66:16-68:4, 88:6-9; Er. Exs. 2-3; Un. Ex. 3) Ms. Laskonis specifically created and served as the administrator of a private facebook group named "CCR 411," which was only visible to hourly employees of Colectivo

(Tr. at 104:1-8; Un. Ex. 3 at 1-2.). During the representation election, CCR 411 had approximately 80-115 members, including employees who were eligible to vote in the union election. (Tr. at 104:14-105:8; Un. Ex. 3.) Ms. Laskonis used CCR 411 to encourage Colectivo employees to vote in the Union election and to relay information about mail ballots (Tr. at 105:5-17, 106:3-17; Un. Ex. 3 at 11.) For example:

- on March 12, 2021, Ms. Laskonis posted about Social Saturday's and wrote that "[a]ny worker who will be receiving a ballot is welcome to attend (Un. Ex. 3 at 3);
- on March 16, 2021, Ms. Laskonis published a post about doing research before submitting ballots and reminded facebook group members to "always feel free to reach out with anything you want to discuss" (Un. Ex. 3 at 10);
- on March 18, 2021, Ms. Laskonis posted a visual image depicting a ballot with the "yes" box checked; (Tr. at 105:18-24; Un. Ex. 3 at 11); and
- on March 19, 2021, Ms. Laskonis posted about Social Saturday's and calling the NLRB to get a replacement ballot. (Un. Ex. 3 at 12.)

Ms. Laskonis's social media communications regarding mail ballots were not confined to posts in the CCR 411 facebook group. (Tr. at 106:19-107:9; Un. Ex. 5.) Ms. Laskonis also posted frequent ballot-related messaging to a separate private facebook group named "Collect TiVo memes" for the purpose of communicating with eligible voters (Tr. at 87:1-4; 88:6-9; Un. Ex. 5.) Her posts to the alternate facebook group included a March 13, 2021 post, which urged members of the Collect TiVo memes group to direct message her with questions. (Tr. at 86:18-21, 89:20-90:3; Er. Ex. 2; Un. Ex. 5 at 2.) Finally, after the Union ballots were mailed out, Ms. Laskonis sent direct facebook messages "a couple times per week" to a facebook chat group, which included approximately 20 to 25 employees who worked at the Humboldt café. (Tr. at 66:16-68:4.) Ms. Laskonis' messages were focused on ballots and she asked eligible voters to contact her if they needed assistance. (*Id.*)

Second, the VOC communicated with eligible voters about mail ballots through group text messaging. (Er. Ex. 12; Un. Exs. 4, 6-7.) VOC members, Mr. Coffel and Ms. Fortin, sent group text messages regarding mail ballots to all employees who worked at the Logan Square Café, including: Ms. Fortin, Mr. Coffel, Rachel Cain, Emmeline Ocampo, David Santiago, Celina Dietzel, Sarah Beidatsch, and Daniel Champion. (Tr. at 23:17-25:11, 30:4-18, 35:25-36:5; Un. Exs. 4 and 6.) Likewise, Ms. Laskonis, Ms. Crea, Ms. Muellner, and other members of the VOC communicated with eligible voters about mail ballots through a separate group text chat, which included 10-15 people. (Tr. at 98:13-99:6; Er. Ex. 12; Un. Ex. 7.)

Third, the VOC communicated with eligible voters about mail ballots during Social Saturday meetings. (Tr. at 151:1-10, 157: 13-16.) The Social Saturday meetings during which ballots were discussed occurred after the ballots were mailed out to voters. (Tr. at 158:1-5.) Specifically, the Union and IBEW hosted virtual social Saturday meetings on March 13, 2021, and March 20, 2021 (Tr. at 88:17-20, 92:24-93:1, 159:22-25, 150:6-25, 158:1-5; Er. Ex. 2; Er. Ex. 4.) The meetings were intended to attract non-VOC members and non-VOC employees attended. (Tr. at 149:3-9, 150:21-25.) During these meetings, ballot-related discussion included talking about waiting for ballots, filling out ballots, reminding employees to fill out their ballots, and information relating to post-mark dates. (Tr. at 151:1-10.)

Fourth, the VOC communicated with eligible voters about mail ballots in phone calls and in-person verbal conversations. (Tr. at 156:6-157:1, 164:22-164:15, Er. Ex. 12 at 1-2; Un. Ex. 7 at 6.) For example, at the Logan Square café, VOC member Ms. Fortin verbally invited Hannah Staple to gather together with other Logan Square employees to mail ballots together. (Tr. at 53:13-24.) Similarly, VOC member, Ms. Crea, specifically recalls speaking with four or five coworkers about their ballots and advised them that they could come to her with questions. (Tr.

156:18-22.) Ms. Crea also spoke with others about mail ballots in passing, including café staff, drivers, and anyone she “knew was eligible to vote.” (Tr. 164:19-23.)

C. Nathan Danford’s ballot is mishandled and subject to potential tampering at the Humboldt Café.

In the midst of the Union’s ongoing ballot-focused messaging campaign, Jessica Ochocki, Humboldt Café Manager, found Nathan Danford’s election ballot at work after it had been abandoned in the Humboldt café. (Tr. at 62:7-10; Er. Ex. 1.) Ms. Ochocki found Mr. Danford’s ballot sitting next to the printer in the Humboldt café’s back office when she arrived for work between 5:45 a.m. and 6:00 a.m. (Tr. at 62:11-22, 64:12-25.) Upon finding the ballot, Ms. Ochocki observed that the ballot envelope had a piece of clear tape over the area of the envelope that was supposed to be sealed. (Tr. at 70:16-21.) Ms. Ochocki had not seen Mr. Danford’s ballot in the café when she concluded her shift the previous day between 2:00 p.m. and 3:00 p.m. (Tr. at 64:3-13.) However, between the end of Ms. Ochocki’s prior shift and her arrival the next morning, approximately 9-11 employees were present in the café. The back office in which Ms. Ochocki found the ballot is not locked and is accessible to and regularly used by 23 to 25 employees. (Tr. at 65:7-13.) The back office is the same location where employees keep their belongings. (*Id.*)

After finding the ballot, Ms. Ochocki took a photo of the ballot and sent the photo to Colectivo’s HR Director, LaShonda Hill. (Tr. at 65:15-21; Er. Ex. 1.) Ms. Ochocki then placed Mr. Danford’s ballot in the Humboldt Café’s safe, where it was still accessible to shift leaders who were eligible to vote in the union election. (Tr. at 65:15-66:6.) After placing the ballot in the safe, Ms. Ochocki sent a text message to Mr. Danford to advise him that there was an envelope waiting for him in the safe. (Tr. at 72:5-9.) Ms. Ochocki does not know what happened to the ballot after she placed it in the safe. (Tr. at 66:8-10.)

D. The Union solicits ballots by encouraging eligible voters to bring their ballots to the Logan Square café.

Between March 11, 2021 and March 21, 2021, VOC members Caroline Fortin and Ryan Coffel solicited all employees at Colectivo's Logan Square café' to bring their mail ballots to work for the purpose of joining together to vote in the union election as a group. (Tr. at 19:12-14, 36:6-8; Un. Exs. 4 and 6.) Specifically, on March 11, 2021, Ms. Fortin invited all of her coworkers to meet up after work so they could all vote together. (Un. Exs. 6 at 1 and 4 at 2.) Employees who received Ms. Fortin's March 11, 2021 group text message included: Mr. Coffel, Rachel Cain, Emmeline Ocampo, David Santiago, Celina Dietzel, Sarah Beidatsch, and Daniel Champion. (Tr. at 23:17-25:11, 30:4-18, 35:25-36:5; Un. Exs. 4 and 6.) Including, Ms. Fortin, this group of 8 employees constitutes *all* the employees who worked at the Logan Square café. (Tr. at 29:18-23.) On March 17, 2021, Mr. Coffel sent a text message to the group which confirmed Ms. Fortin's group voting plan and specifically invited the seven other eligible voters in the text group to bring their ballots to the Logan Square café. (Tr. at 25:22-26:14). Then, on March 19 and 20, 2021, Ms. Fortin texted two additional reminder invitations to the group, which asked employees to bring their ballots to work to vote after close. (Tr. at 37:24-38:3, 34:1-8; Un. Ex. 4 at 3-4.)

On March 21, 2021, a group of several employees brought their ballots to work at the Logan Square café. (Tr. at 33:16-22.) The group of employees who brought their ballots to work on March 21, 2021, included Mr. Coffel, Ms. Fortin, Ms. Cain, Mr. Santiago, Ms. Staple, and possibly Ms. Dietzel. (Tr. at 39:7-9, 46:10-17.) While Mr. Coffel was working, he stored his ballot in a bag in a front-of-house closet. (Tr. at 52:8-22.) The closet is located in the front of the café right when you walk in. (*Id.*) Any other employees who were working had access to the same closet, which meant approximately 4-5 employees would access the closet on any given

day. (Tr. at 52:22-53:6.) The general public also could access the closet. (Tr. at 53:7-9.) Mr. Coffel does not know where any of the other Logan Square employees placed their ballots while they were working on March 21, 2021; however, these employees did not have their ballots in their possession while working. (Tr. at 34:13-17; 54:17-55:1; 57:6-10.) At least one of the other employees, Ms. Staple, may not have brought their ballot to work in a sealed envelope. (Tr. at 46:8-13.) Mr. Coffel, Ms. Fortin, Ms. Cain, Mr. Santiago, Ms. Staple, and possibly Ms. Dietzel all left the Logan Square café “immediately” after their shift on March 21, 2021 and voted together. (Tr. at 27:24-28:2, 39:7-9, 46:10-17, 56:25-57:20.)

ARGUMENT

The Union’s ballot solicitation and other objectionable conduct during the March 2021 representation election calls into question the election’s integrity, affects a determinative number of votes, and warrants setting aside the election results. The Board has long fought to “safeguard the integrity of its elections against irregularity and even the appearance of irregularity.” *Professional Transportation, Inc.*, 370 NLRB 132 (2021), slip op. at 1. In doing so, the Board has repeatedly acknowledged that mail ballot elections are “more vulnerable” to such irregularities. *Id.* at 2-3, citing *Mission Industries*, 283 NLRB 1027, 1027 (1987); *Thompson Roofing, Inc.*, 291 NLRB 743, 743 fn. 1 (1988); *Brink’s Armored Car*, 278 NLRB 141 (1986); and *Fessler & Bowman*, 341 NLRB 932, 933(2004). Of course, the reason for the increased vulnerability of mail ballot elections is that, unlike manual elections, no Board agent is present during mail ballot elections to monitor what employees are actually doing with their ballots. *Id.* To combat the increased potential for irregularities in the mail-ballot election context, the Board has previously adopted and enforced specific rules dictating what voters can and cannot do with

their mail ballots, including, but not limited to, an absolute ban on handling or collecting another voter's mail ballot. *Fessler & Bowman*, 342 NLRB at 934.

Recognizing the increased risk of balloting irregularities in mail ballot elections, the Board, in *Professional Transportation, Inc.*, 370 NLRB 132 (2021), held that “solicitation of ballots by a party is objectionable conduct that may warrant setting aside an election.” *Id.* at 4. The Board issued its new rule for the express purpose of “bring[ing] immediate clarity and consistency to the Board’s rules regarding the solicitation and collection of mail ballots due to the recent increase in mail-ballot elections during the Coronavirus Disease 2019 (COVID-19) pandemic.” *Id.* at 5. Critically, the Board ordered that its new rule be applied retroactively to all pending cases, including this one. *Id.* at 5-6.

When evaluating ballot solicitation under the Board’s new rule, the relevant question is whether such solicitation “impugns the integrity of the election and cast doubt on the secrecy of employees’ ballots.” *Id.* at 4. Importantly, the solicitation need not be successful or result in ballot tampering or the loss of ballot secrecy to constitute objectionable conduct. *Id.* In fact, even the “appearance of irregularity” arising out of ballot solicitation is sufficient to set aside the results of an election if such objectionable conduct affects a determinative number of voters. *See Id.* Here, the Union engaged in both successful ballot solicitation and attempted ballot solicitation, in each case sufficient to affect a determinative number of votes and warrant setting aside the election.

I. The Union’s agents engaged in unlawful solicitation of mail ballots at the Logan Square Café.

Between March 11, 2021 and March 21, 2021, Union agents, including Ryan Coffel and Caroline Fortin, repeatedly solicited at least 7 Colectivo employees via group text messaging to bring their ballots to the Logan Square café for the purpose of engaging in group voting

activities. (Un. Exs. 4 and 6.) The Union’s unlawful solicitation of mail ballots at Logan Square began with Ms. Fortin’s March 11, 2021 group text message, which stated, as follows:

hey y’all! It’s that time of months [sic] where union ballots are rolling in once we all get ours in mail, let’s figure out an afternoon that works for everyone to meet up and head to the post office together! (and maybe have a little post-vote drink after?)

mine just arrived, and I’m sure some other have already gotten theirs, or will soon!.

(Un. Exs. 6 at 1 and 4 at 2.) Ms. Fortin’s March 11 2021 group text message, alone, constitutes objectively objectionable misconduct, which raises serious doubts about the secrecy of employee ballots and calls into question the integrity of the representation election. (*See* Un. Ex. 6 at 1.)

Voting in a representation election is not a group activity. To protect employees’ Section 7 right to choose whether or not they wish to be represented by a Union, Board-conducted elections are designed to provide “a forum where employees may freely express their representation choices via *secret ballot*.” *Fessler & Bowman*, 342 NLRB at 933 (emphasis added); 29 CFR § 102.69(a)(2). To preserve the secrecy of the ballot, voting is inherently a solo activity. In a manual election, the Board’s rules require the use of voting booths that provide both privacy and the appearance of privacy. Section 11304, NLRB Casehandling Manual (Part Two) Representation Proceedings (September 2020). Voters cast their ballots in secret and then directly and immediately deposit those ballots in the ballot box, all under the direct supervision of a Board agent. *Fessler & Bowman*, 342 NLRB at 933. In fact, the Board agent remains “within monitoring proximity of every ballot at all times during a manual election and the only time the agent does not have custody of the ballots is for the brief time each voter steps into the voting booth *alone* to mark his or her ballot *in private*.” *Professional Transportation, Inc.*, 370 NLRB at 2, n.7 (emphasis added.) In the absence of direct oversight by a Board agent, the

circumstances of mail ballot elections, which are more susceptible to the irregularities and the appearance of irregularities, make the necessity of voting “alone” paramount. *Professional Transportation, Inc.*, 370 NLRB at 2-3.

Despite the Board’s express requirement that voting in a representation election is something that should be done “alone” and “in private,” Ms. Fortin and Mr. Coffel continued to solicit employees to bring their mail ballots to work after Ms. Fortin’s initial March 11, 2021 solicitation. The VOC’s group text solicitations continued on March 17, 19, and 20, 2021. Then, on March 21, 2020, Mr. Coffel, Ms. Fortin, Ms. Cain, Mr. Santiago, Ms. Staple, and possibly Ms. Dietzel, all demonstrated that the VOC’s unlawful and objectionable mail ballot solicitations had worked. This group of 5-6 employees joined together to cast their votes as a group “immediately” after work, which means that each of these employees brought their election ballot with them to work at the direction of the VOC, left the ballots unattended somewhere in the café while they were working, and then assembled as a group to cast their ballots together.

The Union may argue that its solicitation of ballots to the Logan Square café is unobjectionable because the solicitations encouraged voters to only bring their ballots to the café “signed and sealed.” However, the Union cannot cure its unlawful ballot solicitation to engage in group voting by simply pairing its solicitation with a disingenuous reminder to follow other mail balloting rules. A bank robber isn’t absolved of his crime because he reminds the getaway driver to follow the speed limit as they drive away. Moreover, even if the 5-6 ballots employees brought to work were properly sealed and showed no evidence of tampering, the fact the ballots were left unsecured and accessible to other coworkers at the Logan Square café throughout the work day creates at least the appearance of irregularity, which is sufficient to set aside the election results. *See New York Telephone Co.*, 109 NLRB 788, 790-791 (1954) (holding that a

regional office temporarily mislaying ballots was objectionable grounds for overturning an election, even though the ballots showed no signs of tampering and were at all times secured in a locked room).

Regardless of where these workers stored their ballots before group voting on March 21, 2021, their decision to bring their ballots to work at the behest of the VOC creates far more than just the appearance of irregularity. By turning a private, individualized, right of free choice guaranteed by Section 7 into a peer-pressured communal act of solidarity, the VOC fundamentally destroyed the “laboratory conditions” necessary to preserve the integrity of the representation election in this case. Publicly voting hand-in-hand with members of the VOC eliminates any illusion of voter privacy. Consequently, any employee who observed the group voting together would know the group voters were voting for the Union. Moreover, because Mr. Coffel and Ms. Fortin’s objectionable solicitation directly affected at least 9 total¹ votes, the only appropriate remedy is to set aside the election results.

The Union may also attempt to evade responsibility for Mr. Coffel and Ms. Fortin’s ballot solicitations by arguing that Mr. Coffel and Ms. Fortin are not actually party representatives. However, the evidence presented at Hearing clearly demonstrates that all members of the VOC possessed both actual and apparent authority to act on behalf of the Union.

The Board has previously defined the scope of actual authority for purposes of liability in a principal-agent relationship, as follows:

A principal is responsible for its agents’ conduct if such action is done in furtherance of the principal’s interest and is within the general scope of authority attributed to the agent . . . it is enough if

¹ Votes directly impacted by the objectionable solicitation include all eight individuals on the March 11, 2021 through March 21, 2021 group text chat (i.e. Ms. Fortin, Mr. Coffel, Ms. Cain, Ms. Ocampo, Mr. Santiago, Ms. Dietzel, Ms. Beidatsch, and Mr. Champion), and Hannah Staple. (Tr. at 23:17-25:11, 30:4-18, 35:25-36:5; Un. Exs. 4 and 6.)

the principal empowered the agent to represent the principal within the general area in which the agent has acted.

Bio-Medical Applications of Puerto Rico, 269 NLRB 827, 828 (1984). Here, the evidence is clear that the Union empowered the VOC to act as its agent to secure yes votes from eligible voters. Beginning with the Union's August 6, 2021 letter to the Company which announced the VOC's formation and membership, the Union has consistently held up the VOC members as its own. The IBEW organizers and VOC participated in weekly conference calls and co-hosted Social Saturday meetings for eligible voters. The Union also supported the VOC with resources and reviewed the VOC's publications before they were disseminated. At least one member of the VOC was also a paid Union employee. And, the Union's final campaign letter to Colectivo employees (which was sent using the VOC's email list) specifically invited Colectivo employees to contact either the IBEW or any member of the VOC, implying either resource was completely interchangeable. For all these reasons, there is no doubt that any actions taken by the VOC in the scope of organizing employees during the representation election must be imputed to the Union, which deputized the VOC to engage with Colectivo employees on the Union's behalf.

Moreover, there is sufficient evidence to demonstrate that the IBEW's close partnership with the VOC would have caused Colectivo employees to conclude that VOC members were acting on behalf of the IBEW. A union may be held accountable for statements of its committee members if they are responsible representatives of the union in the plant and play a central role in the election campaign. *Vickers, Inc.*, 152 NLRB 793, 795 (1965). "Apparent authority results from a manifestation by the principal to a third party that creates a reasonable basis for the latter to believe the principal has authorized the alleged agent to perform the acts in question." *Corner Furniture Discount Center, Inc.*, 339 NLRB 1122 (2003). In *Tyson Fresh Meats, Inc.*, 343 NLRB 1335, 1337 (2004), the Board reasoned that because the union empowered stewards with

the responsibility of introducing new employees to the benefits of the Union, the Union should have known that it had created the perception that stewards were acting on the Union's behalf. The same is true in the instant case. The Union publicly announced the VOC as its affiliate in a letter to the Company and then consistently partnered with the VOC throughout the organizing campaign. Thus, at least with respect to organizing Colectivo's workforce, the Union intentionally fostered the impression that the VOC and Union were one and the same. Accordingly, the Union is responsible for the objectionable conduct committed by members of the VOC, including but not limited to Ms. Fortin and Mr. Coffel's ballot solicitations. Because the objectionable ballot solicitations affected a determinative number of votes, the Regional Director should sustain Employers Objection No. 2 and set aside the results of the election.

II. The Danford ballot should not have been counted and its mishandling raises doubts about the integrity of the election.

Mr. Danford's mishandled ballot must be set aside to preserve the integrity of the election. The Board has previously set aside an election simply because a determinative number of ballots were temporarily mislaid by the regional office, even though those ballots were in a locked room at all times and showed no indication of tampering. *See New York Telephone Co.*, 109 NLRB 788, 790-791 (1954). The circumstances of Mr. Danford's ballot are far more suspicious and demonstrate a complete breakdown in the requisite laboratory conditions. Regardless of whether Mr. Danford brought his ballot to the Humboldt café in response to objectionable ballot solicitation, the evidence is clear that for an undetermined time period prior to submitting his vote, Mr. Danford's ballot was both accessible to, and handled by, other Colectivo employees. Pursuant to *Fessler & Bowman*, 342 NLRB at 934, the fact that Mr. Danford's ballot was handled by others is objectionable conduct in and of itself. But, even if the ballot had not been handled by others, the fact that the ballot envelope was closed with a piece of

clear tape raises legitimate doubt regarding who cast the vote inside and whether the secrecy of that vote was preserved. Under these circumstances, “[t]here is no valid reason for disregarding conduct that exposes [ballots] to question and creates an appearance of irregularity simply because the person responsible is a party agent rather than a Board agent.” *Professional Transportation, Inc.*, 370 NLRB at 4 (internal quotations removed). Consequently, the Regional Director should sustain Employer’s Objection No. 1, discard Mr. Danford’s ballot, and set aside the election results.

III. The VOC’s repeated, multi-channel, ballot-focused communications fostered an environment of ballot solicitation and calls into question the integrity of the election results.

The Union’s incessant ballot-focused employee communications during the representation election are a direct affront to the Board’s self-imposed imperative to “safeguard the integrity of mail-ballot elections.” *Professional Transportation, Inc.*, 370 NLRB at 3. One of the many risks of ballot solicitation is that it “suggest to employees that the soliciting party is officially involved in running the election, which the Board has found incompatible with its responsibility for assuring properly conducted elections.” *Id.* (internal quotations removed) citing *Alco Iron & Metal Co.*, 269 NLRB at 591-592. In isolation, many of the VOC’s ballot-focused communications to eligible voters in this case may seem unharmful. However, in the aggregate, the unyielding barrage of ballot-related communications from the VOC all contributed to the same objectionable inference in the minds of many voters—that the VOC was standing in the official shoes of the Board and running the election. The Union and the VOC communicated with employees about mail ballots and mail ballot procedures *ad nauseum* because they wanted to subtly exert their influence as the go-to resource for employees who had ballot-related questions. Ms. Laskonis repeatedly encouraged eligible voters to contact her through direct

messages with “any questions.” Likewise, Ms. Crea made a point to communicate information about ballots to anyone “she knew was eligible to vote.”

The evidence presented at Hearing demonstrates that the Union’s efforts to subversively fill the role of “election official” appear to have worked. On March 29 and 30, 2021, when eligible voters were trying to cast in person votes at the NLRB’s office, the voters who had problems did not reach out to the Board’s election officials for help. Instead, they contacted Ms. Laskonis and Ms. Crea. (Er. Ex. 12; Un. Ex. 7.) These voters believed that the VOC was proper authority to ensure their votes counted and the consequences of that belief are significant. As direct result of the Union’s objectionable conduct, the secrecy of the 2 ballots cast by Ms. Crea’s “yes voters” and the 9 ballots cast by the employees working at Logan Square was destroyed. Thus, if the Union is free to offer its unrestricted assistance to voters on issues relating to mail ballots and if group voting is considered to be an acceptable election practice, then it will never be possible to replicate the laboratory conditions of manual elections in the mail-balloting context. For all these reasons, the totality of the circumstances surrounding the Union’s ballot-related messaging further demonstrates the necessity of sustaining Colectivo’s Objection No. 2, and setting aside the election results.

IV. The other acts of Union misconduct exposed during the Hearing on Objections also warrant setting aside the election.

The Union’s other acts of unlawful election-related conduct must not be ignored because they cast further suspicion on the validity of the entire election process. *See* Section 11392.10, NLRB Casehandling Manual (Part Two) Representation Proceedings (September 2020); *see also American Safety Equipment Corp.*, 234 NLRB 501 (1978). When the Regional Director receives evidence that an election has been tainted through a party’s objectionable conduct, the evidence of such conduct should not be ignored merely because it was not specifically alleged within a

party's objections. *White Plains Lincoln Mercury*, 288 NLRB 1133 (1988). Moreover, such evidence may still be properly relied upon to set aside an election. *Id.* at 1136.

A. The Union's unlawful voter list interfered with employee's Section 7 free choice rights.

A union's decision to track and record "yes votes" casts doubt on the fairness of the election process. The Board's longstanding election rules prohibit anyone from keeping a list of persons who have voted. *Cerock Wire & Cable Group, Inc.*, 273 NLRB 1041 (2000). Where a party has maintained a list of voters, the Board orders a second election because list keeping violates established Board election procedures, and because "rules which are designed to guarantee free choice must be strictly enforced against material breaches in every case, or they may as well be abandoned." *International Stamping Co., Inc.*, 97 NLRB 921, 924 (1951). The Board demonstrated its strict adherence to the no voter list rule in *Days Inn Management Co., Inc.*, 299 NLRB 735, 736 (1990), where the Board held that even when there is no actual interference with voters' free choice, "[t]he keeping of any other list of individuals who have voted is prohibited and is grounds in itself for setting aside the election when it can be shown or inferred from the circumstances that the employees knew that their names were being recorded." The Union's voter tracking and the subject-voters' knowledge of the Union's voter tracking are both evident in this case.

On March 29, 2021, Brianna Crea, a member of the Union's VOC, stated in a text message group chat, which included representatives of the Union and other members of the VOC, that she had personally secured "2 yes votes." (Tr. at 141:4, 11-13; Un. Ex. 7 at 2.) Ms. Crea did not identify either voter by name in the text message exchange; however, related text messages from other members of the VOC in the same group text conversation demonstrate that the identities of Ms. Crea's yes voters were no secret to those on the group chat. In fact, Ms.

Laskonis confirmed to the group that both she and Ms. Crea were “talking to the same person” about securing the delivery of his ballot. (Tr. at 129:18-24; Un. Ex. 7 at 1.) Based on this evidence alone, at least two members of the VOC engaged in direct communications with voters whom they knew would be voting “yes” and then wrote down those “yes” votes in a communication forum where other members of the VOC and the Union could track their progress. These actions directly violate the Board’s prohibition against voter list keeping. Moreover, other messages in the same group chat create a strong inference that the two voters whose votes Ms. Crea and Ms. Laskonis were tracking knew their votes were being tracked. The voter’s knowledge that the VOC was tracking votes is evidenced by Ms. Crea’s March 30, 2021 message to the same group chat, which stated: “Forgot to update. Both ballots got turned in on time.” (*Id.*) The only way Ms. Crea would know whether these voters turned in their ballots is if they were providing her with ongoing status updates. The only logical reason that these voters would take the time to confirm the submission of their ballots to Ms. Crea is that they knew Ms. Crea was tracking their votes.

While only two yes votes were recorded in the March 29-30, 2021 group chat, the context in which the group chat was used by the VOC and the VOC’s actions to corral votes in conjunction with the group chat, demonstrate that the Union was actively engaged in tracking and recording “yes” votes and then disseminating that information to members of the VOC. These messages also demonstrate that the employees whose votes were being tracked knew they were being tracked. Together, these circumstances objectively violated the Section 7 rights of tracked voters. Under existing Board law, the Union’s decision to track votes, and the inherent knowledge of these voters that their votes were being tracked, is sufficient grounds to set aside the election results. *See Days Inn Management Co., Inc.*, 299 NLRB 735, 736 (1990).

B. The union's unlawful campaign appeal to race.

The Board may set aside an election when a party's campaign propaganda is calculated to inflame racial prejudice by deliberately seeking to overemphasize and exacerbate racial feeling through irrelevant, inflammatory appeals. *Sewell Mfg. Co.*, 138 NLRB 66, 71–72 (1962). On the one hand, “a relevant campaign statement” will not be condemned simply “because it may have racial overtones.” *Id.* at 71. On the other hand, however, the Board does not tolerate “appeals or arguments which can have no purpose except to inflame the racial feeling of voters in the election.” *Id.* In this case, the evidence presented during the Objections Hearing clearly demonstrates that the Union campaigned in this election with the latter motivation in mind.

Specifically, during the Union's election campaign, the VOC published a racially inflammatory campaign advertisement to its Instagram account, which has 3,204 followers (Tr. at 99:13-100:20; Er. Ex. 6 at 1-2.) The Union's racially inflammatory post outrageously accused the Company of fostering “Systemic Racism” within Colectivo, which the Union's propaganda implied could be fixed through collective bargaining. (*Id.*) Regardless of the race of Colectivo's workforce, the Union's transparent attempt to urge voters to both consider and act on race as a factor in an election could have served no purpose other than to inflame the racial tensions of voters during the election. *NLRB v. Schapiro & Whitehouse, Inc.*, 356 F.2d 675, 678–679 (4th Cir. 1966) (holding that racial appeals were inappropriate even where the majority of an employer's workforce was African American). The Regional Director should consider the Union's objectionable and unlawful campaign appeals to race in the context of evaluating whether the Union has undermined the integrity of the Board's election process.

C. Pro-Union supervisory conduct by Ryan Coffel interfered with employees' exercise of free choice in the election.

Ryan Coffel's dual role as both an acting supervisor at the Logan Square café and active member of the VOC interfered with the free choice of the employees he supervised. Supervisory solicitation has an inherent tendency to interfere with an employee's freedom to choose, given that solicitation places employees in a situation where they could be reasonably concerned about giving the "right" or "wrong" response to their supervisors. *Harborside Healthcare, Inc.*, 343 NLRB 906, 911 (2004). When evaluating whether a supervisor's pro-union conduct upsets the laboratory conditions necessary for a fair election, the Board considers two factors:

(1) Whether the supervisor's pronoun conduct reasonably tended to coerce or interfere with the employees' exercise of free choice in the election. This inquiry includes: (a) consideration of the nature and degree of supervisory authority possessed by those who engage in the pronoun conduct; and (b) an examination of the nature, extent, and context of the conduct in question.

(2) Whether the conduct interfered with freedom of choice to the extent that it materially affected the outcome of the election, based on factors such as (a) the margin of victory in the election; (b) whether the conduct at issue was widespread or isolated; (c) the timing of the conduct; (d) the extent to which the conduct became known; and (e) the lingering effect of the conduct.

Id. at 909. Critically, if these two factors are answered in the affirmative, no express promise or threat is necessary for such pro-union conduct to be objectionable. *Id.*

In the present case, Mr. Coffel's pro-Union conduct easily satisfies both factors.

Regarding the first factor, Mr. Coffel testified that he worked at the Logan Square café as a Shift Leader and that he was responsible for managing the café in the absence of a manager. (Tr. at 18:11-20, 19:1-3.) Mr. Coffel further testified that he was generally responsible for "[f]acilitation – basically running the floor . . . making sure that everything is running smoothly, handling cash, opening registers, and things of that nature." (Tr. at 18:21-25.) These duties and responsibilities,

including, in particular, Mr. Coffel's exclusive authority over the café in the absence of a manager, demonstrate that Mr. Coffel was acting in the role of supervisor during the representation election, despite his shift leader job title. At the same time as Coffel was performing supervisor work, he was simultaneously promoting the Union's organizing drive as a self-declared member of the Union's Voluntary Organizing Committee (Tr. at 20:16-21:4; Er. Ex. 7.) The VOC's general pro-union conduct is ubiquitous in the evidence presented at Hearing, but Mr. Coffel's pro-Union conduct went beyond mere campaign messaging, as he used his influential dual roles as supervisor and VOC member to solicit and corral pro-Union votes from the same employees at the Logan Square café whom he directly supervised. (Tr. at 23:17-25:8, 29:10-23; Un. Ex. 4 and 6.)

Moreover, Mr. Coffel's direct, pro-Union advocacy to all 7 other employees who worked at the Logan Square café, satisfies the second *Harborside Healthcare* factor because it materially affected the outcome of the election. The impact of Mr. Coffel's actions on the election was previously demonstrated, above, in the related context of Mr. Coffel's unlawful solicitations of voter ballots. With the election results currently divided by a margin of just 7 votes, Mr. Coffel's pro-Union actions alone, including his direct voter engagement during the mail-balloting period, could have individually coerced enough pro-Union votes to change the outcome of the election. Accordingly, in conjunction with Colectivo's formally stated objections, the Regional Director should consider the detrimental impact of Mr. Coffel's objectionable pro-Union supervisory conduct on the overall integrity of the representation election.

CONCLUSION


The Union's objectionable conduct in this case directly affected at least 12 voters, including the 9 voters at Logan Square, Nathan Danford, and the 2 voters who interacted with

Ms. Crea. These 12 votes are sufficient in number to be determinative and thereby warrant overturning the election results.

For all the foregoing reasons, Colectivo respectfully request that the Regional Director sustain Objections 1 and 2, set aside the election results, and order a rerun election.

Dated at Green Bay, Wisconsin, this 6th day of October, 2021.

GODFREY & KAHN, S.C.

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UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS LOCAL NOS. 494
AND 1220,

Case No. 18-RC-272212

Petitioner,

and

COLECTIVO COFFEE ROASTERS, INC.,

Employer.

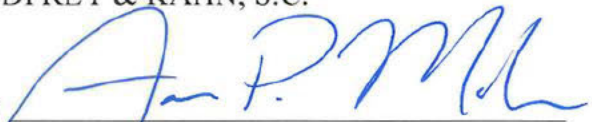
CERTIFICATE OF SERVICE

I hereby certify that on October 6, 2021, I served a copy of the foregoing Post-Hearing Brief in Support of Employer's Objections by email at: dean@ibew494.com (Dean Warsh, IBEW, Local Unions 494 and 1220); joe_dimichele@ibew.org (Joe DiMichele, International Lead Organizer); and jh@previant.com (Jill Hartley, attorney for IBEW). A copy of the Post-Hearing Brief in Support of Employer's Objections has also been served upon the Regional Director via electronic filing.

Dated this 6th day of October, 2021.

GODFREY & KAHN, S.C.

By:



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OFFICIAL REPORT OF PROCEEDINGS
BEFORE THE
NATIONAL LABOR RELATIONS BOARD

In the Matter of:

Case No: 18-RC-272212

COLECTIVO COFFEE ROASTERS, INC.,

Employer,

and

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS,
LOCAL UNIONS 494 & 1220,

Petitioner.

Place: Video Conference
Date: September 29, 2021
Pages: 1 through 169
Volume: 1 of 1

OFFICIAL REPORTERS

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**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

In the Matter of:

COLECTIVO COFFEE ROASTERS, INC.

Employer,
and

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS LOCAL UNIONS
494 & 1220,

Petitioner.

Case No: 18-RC-272212

The above-titled matter came on for hearing pursuant to Notice, before Hearing Officer Jessica Cholewa, via Zoom, from the National Labor Relations Board, on Wednesday, the 29th of September, 2021, at 9:05 a.m.

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RAIFAEL WILLIAMS

I N D E X

<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>COURT</u>
Ryan Coffel	17	39	52 56	55	
Jessica Ochocki	60	68			
Hillary Laskonis	79	114	134		
Brianna Crea	138	154	158 162	160	

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4	<u>EXHIBITS</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
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6	Board		
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8	1(a) through 1(o)	6	6
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P R O C E E D I N G S

[Time Noted: 9:05 a.m.]

HEARING OFFICER CHOLEWA: Let's go on the record. The hearing will be in order. This is a hearing before the National Labor Relations Board in the matter of Colectivo Coffee Roasters, Inc., Case No. 18-RC-272212 pursuant to the order of the Regional Director dated September 2nd, 2021.

The Hearing Officer conducting the hearing is Jessica Cholewa. The bailiff will be Raifael Williams. The official reporter makes the only official transcript of these proceedings, and all citations, briefs, and arguments must refer to the official record.

In the event that any of the parties wishes to make an off the record remark, requests to make such remarks should be directed to me and not to the official reporter.

Statements of Reasons in Support of Motions and Objections should be specific and concise. Exceptions automatically follow all adverse rulings. Objections and exceptions may, on appropriate request, be permitted to an entire line of questioning.

I now propose to receive the formal papers. They have been marked for identification as Board's Exhibits 1(a) through 1(o), inclusive. Exhibit 1(o) being an index and description of the entire exhibit. The exhibit has already been shown to all parties.

1 (Board's Exhibit Nos. 1(a) through 1(o) marked for
2 identification.)

3 Are there any objections to the receipt of these
4 exhibits into the record?

5 MS. HARTLEY: No objection.

6 MR. HAASE: Madame Hearing Officer Cholewa, I just
7 received it. I was not copied on the email that went out
8 yesterday, but I'm reviewing them now. Just give me a
9 moment if you don't mind, and it will take me about a
10 minute. I've already looked at the index if that's
11 acceptable.

12 HEARING OFFICER CHOLEWA: Certainly. Let's go off the
13 record.

14 (Off the record)

15 HEARING OFFICER CHOLEWA: All right. Employer, any
16 objections to receiving the formal papers?

17 MR. HAASE: No.

18 HEARING OFFICER CHOLEWA: Okay. Hearing no
19 objections, the formal papers are now received into
20 evidence.

21 (Board's Exhibit Nos. 1(a) through 1(o) received into
22 evidence.)

23 HEARING OFFICER CHOLEWA: It appears from the Regional
24 Director's order dated September 2nd, 2021 that the hearing
25 is held for the purpose of taking evidence concerning

1 objections to the election conducted on March 9th, 2021.

2 The parties have been advised that the hearing will
3 continue from day to day as necessary until completed unless
4 I conclude that extraordinary circumstances warrant
5 otherwise.

6 Any party desiring to submit briefs to the Hearing
7 Officer shall be entitled to do so within five (5) business
8 days after the close of the hearing. Prior to the close of
9 the hearing and for good cause, the Hearing Officer may
10 grant an extension of time to file a brief not to exceed an
11 additional ten (10) business days.

12 Any party shall be entitled upon request to a
13 reasonable period at the close of the hearing for oral
14 arguments.

15 In due course, I will prepare and file with the
16 Regional Director my report resolving questions of
17 credibility and contain findings of facts and
18 recommendations as to the disposition of the issues and will
19 cause a copy thereof to be served on each of the parties.

20 The parties have a right to file exceptions to my
21 report to the Regional Director and may request review of
22 the Regional Director's decision from the Board. The
23 procedure to be followed from that point forward is set
24 forth in Section 102.69 of the Rules and Regulations.

25 Will counsel and other representatives for the parties

1 please state their appearances for the record? For the
2 Employer?

3 MR. HAASE: John Haase, spelled H-a-a-s-e, with
4 Godfrey and Kahn, SC.

5 HEARING OFFICER CHOLEWA: Thank you.

6 MR. HAASE: And with me is Aaron McCann, also counsel
7 for the Employer.

8 HEARING OFFICER CHOLEWA: Thank you. And can you
9 spell his name as well, please?

10 MR. HAASE: It's A-a-r-o-n, M-c-C-a-n-n.

11 HEARING OFFICER CHOLEWA: Thank you. For the
12 Petitioner?

13 MS. HARTLEY: Jill Hartley of the Previant Law Firm.
14 That's H-a-r-t-l-e-y, and James Lewis, L-e-w-i-s, also with
15 the Previant Law Firm.

16 HEARING OFFICER CHOLEWA: Thank you very much. Are
17 there any other appearances? Let the record show no
18 response.

19 The issues for hearing are contained in the Notice of
20 Hearing. Will the parties please state their positions?
21 For the Employer?

22 **EMPLOYER POSITION STATEMENT**

23 MR. HAASE: The Employer's position in this matter is
24 that during the election campaign and particularly after
25 ballots were sent there was improper solicitation of ballots

1 by supporters of the Union members of the Voluntary
2 Organization Committee, and that solicitation of ballots
3 violates the rules and is the basis for objection.

4 In particular, I draw your attention to Union's Exhibit
5 Nos. 4 and 6 as direct evidence, and we will be providing
6 additional testimony to support those objections.

7 HEARING OFFICER CHOLEWA: Thank you. For the
8 Petitioner?

9 **PETITIONER POSITION STATEMENT**

10 MS. HARTLEY: The Petitioner's position is that there
11 was no improper solicitation of ballots by the Union and
12 denies all of the Employer's allegations with regard to the
13 Union's conduct during the course of the election and
14 challenges the objections that they have raised to the
15 election.

16 HEARING OFFICER CHOLEWA: Okay. Thank you. The party
17 filing an objection has the burden of proof to establish the
18 objectionable conduct effecting the results of the election.
19 You must present specific detailed evidence in support of
20 your position. General or conclusionary statements by
21 witnesses will not be sufficient.

22 Are there any preliminary issues that we need to
23 discuss at this point?

24 MR. HAASE: Yes. This is John Haase. A couple of
25 matters, Madame Hearing Officer.

1 First, we would request sequestration of witnesses.
2 There are potentially multiple witnesses involved in this
3 case. Many of them are on the video conference now. It
4 creates an opportunity for witnesses to think about their
5 testimony in advance, can form answers, which is why the
6 Hearing Officer Manual at page 161 indicates that
7 sequestration requests should normally be granted. So we
8 would ask that witnesses be sequestered.

9 HEARING OFFICER CHOLEWA: Petitioner, what is your
10 position on sequestration?

11 MS. HARTLEY: We're fine with that.

12 HEARING OFFICER CHOLEWA: Okay. I'm going to grant
13 sequestration. So I have granted a request to sequester
14 witnesses. This means that all persons who are going to
15 testify in this proceeding, with specific exceptions, may
16 only be present in the hearing room when they are giving
17 testimony. Each party may select one person to remain in
18 the room and assist in the presentation of its case. They
19 may remain in the hearing room even if they are going to
20 testify or have testified.

21 This order also means that from this point on until the
22 hearing is finally closed that no witnesses may discuss with
23 other potential witnesses either the testimony that they
24 have given or that they intend to give. The best way to
25 avoid any problems is simply not to discuss the case with

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1 any other potential witness until after the hearing is
2 completed.

3 Under the rules applied by the Board, with one
4 exception, counsel for a party may not in any manner,
5 including the showing of transcripts of testimony, inform a
6 witness about the content of the testimony given by a
7 preceding witness without express permission of the Hearing
8 Officer.

9 However, counsel for a party may inform counsel's own
10 witness of the content of testimony and may show to a
11 witness transcripts of testimony given by a witness for the
12 opposing side in order to prepare for rebuttal of such
13 testimony. I expect counsel to police the sequestration
14 order and to bring any violation of it to my attention
15 immediately. Also, it is the obligation of counsel to
16 inform potential witnesses of their obligations under the
17 order.

18 It is also recommended that as witnesses leave the
19 witness stand upon completion of their testimony that the be
20 reminded that they are not to discuss their testimony with
21 any other witness until the hearing is completed.

22 Can we please go off the record for a moment?

23 *(Off the record)*

24 HEARING OFFICER CHOLEWA: Mr. Haase, and I apologize
25 if I just messed up your last name, is there another matter

1 that you wanted to bring up?

2 MR. HAASE: There is. And no apologies required.

3 I've gotten --

4 MR. MCCANN: Judge, can I -- sorry. Can I just
5 interject real quick? LaShonda was -- our party
6 representative was accidentally placed the breakout room.
7 Thank you, Your Honor.

8 HEARING OFFICER CHOLEWA: Sorry. One moment, please.
9 There we go. All right. Please continue.

10 MR. HAASE: In order to facilitate an efficient
11 hearing, we would propose that the parties' exhibits that
12 were circulated be admitted and stipulate to the admission.
13 I think it will save a significant amount of time relative
14 to laying foundation and to admit the exhibits in addition.
15 Clearly, each party thinks that they're relevant and have
16 good reason for listing them as exhibits. So we would
17 propose that both the Employer and the Union exhibits be
18 admitted.

19 HEARING OFFICER CHOLEWA: Petitioner, what is your
20 position on that?

21 MS. HARTLEY: I'm fine with that.

22 HEARING OFFICER CHOLEWA: Okay. Can we go off record
23 for a minute?

24 (Off the record)

25 HEARING OFFICER CHOLEWA: Seeing as the Union does not

1 object, the Employer's motion to accept all exhibits as
2 previously circulated is approved.

3 **(Employer's Exhibit Nos. 1 through 11 and Union's Exhibit**
4 **Nos. 1 through 6, marked for identification.)**

5 Was that your last issue?

6 MR. HAASE: I have one more topic to bring up, but if
7 it's acceptable, I'd appreciate your indulgence.

8 This was a matter we raised at the prehearing
9 conference, and it relates to the fact that of the witnesses
10 we subpoenaed, the four witnesses, we requested a number of
11 documents. I began receiving those documents, you know,
12 sometime around 8:15 this morning. There are many hundreds
13 of pages. So I'm prepared to proceed with testimony now,
14 but I'm curious what your thought and opposing counsel's
15 thought is on how we manage the situation of calling those
16 witnesses. I guess giving us an opportunity to review those
17 exhibits before we call those witnesses.

18 HEARING OFFICER CHOLEWA: So would half an hour be
19 sufficient time for you to review those documents?

20 MR. HAASE: I think that's unlikely. Let me ask my
21 colleague Mr. McCann to weigh in on that because he's been
22 focusing on the preliminary review since the exhibits
23 started coming in or the documents started coming in.

24 MR. MCCANN: Yes. I mean we've gotten, as John said,
25 hundreds of pages, and they're not all formatted in the form

1 of a pdf. So a number of the submissions that we've gotten
2 from some of the witnesses that were subpoenaed are
3 attachments to emails that are zipped, and it's a little
4 difficult to make sure that we actually can review or know
5 what we're reviewing and access those documents. So I think
6 something more than a half-hour is probably necessary to
7 actually get through what we were given.

8 I would also add that we've received exhibits from two
9 of the witnesses that were subpoenaed by the Employer, or
10 maybe three, but at least one of the witnesses has not
11 emailed those exhibits as of yet to us because, you know,
12 she was directed to have them with her at the hearing. And
13 so perhaps there could be an instruction to the extent those
14 subpoenaed witnesses who have brought those exhibits with
15 them that they could also provide those to us before we
16 proceed with calling them as witnesses for testimony.

17 HEARING OFFICER CHOLEWA: How long do you think is
18 going to be sufficient for you to look at those documents?

19 MR. MCCANN: I mean I think an hour is probably more
20 likely to give us a fair opportunity to get through them.

21 HEARING OFFICER CHOLEWA: Okay. Let's go off record
22 for a second.

23 *(Off the record)*

24 HEARING OFFICER CHOLEWA: Thank you. Okay. Given the
25 voluminous records, I think the Employer's request for an

1 hour to look through the documents is reasonable. So I am
2 going to approve such request, and at this time, it's 10:27,
3 and we will reconvene at 11:27. Off record.

4 *(Off the record)*

5 HEARING OFFICER CHOLEWA: Okay. Previously when we
6 were on the record, the parties jointly stipulated to the
7 admission of the Employer's Exhibits 1 through 11 and Union
8 Exhibits 1 through 6. At this time I am admitting
9 Employer's 1 through 7 and Union's 1 through 4, but I am
10 going to hold off on admitting Employer's Exhibits 8 through
11 11.

12 **(Employer's Exhibit Nos. 1 through 7 and Union's Exhibit**
13 **Nos. 1 through 4, received into evidence.)**

14 Employer, these exhibits seem to be subpoena requests
15 that you sent to various witnesses. At this juncture, why
16 are you seeking to admit these particular items at this
17 particular time?

18 MR. HAASE: That's a fair point. The reason we
19 included them is just for the purpose, if need be, to
20 question witnesses about the categories of documents we
21 requested, so we wanted to have the ability to have those
22 subpoenas in front of those witnesses in front of those
23 witnesses for those questions. So that's why they were
24 included.

25 If you don't feel the subpoenas need to be part of the

1 record, I have no objection to withholding them from being
2 admitted.

3 HEARING OFFICER CHOLEWA: Okay. Union, what's your
4 position on that? Jill? Let's go off record. Never mind.

5 MS. HARTLEY: Thank you. Sorry. I thought I had
6 unmuted myself. Sorry about that.

7 I am in agreement with excluding them from the record
8 at this time on that basis.

9 HEARING OFFICER CHOLEWA: Okay. At this time, I am
10 going to hold off, and if they become necessary, we can
11 revisit it.

12 The parties are reminded at this time that it is their
13 responsibility to clearly identify all exhibits used when
14 questioning a witness so that the record is clear.

15 Okay. Employer, please present your first witness.

16 MR. HAASE: We would call Ryan Coffel if he is here
17 and available. He is on the Union's witness list. I
18 understand he was subpoenaed to be here, and we would like
19 to call him as a witness to begin.

20 MS. HARTLEY: Ryan, I issued his subpoena for 11:00
21 a.m. because I didn't anticipate we would be calling
22 witnesses immediately. Ryan is out town, so we can contact
23 him and let him know that it's time for him to log on. He
24 wasn't intending to log on until, you know, he got some
25 notice based on the fact that he wasn't subpoenaed by the

1 Company. So I can certainly -- you know, we can reach out
2 to him and ask him to log on at this point.

3 HEARING OFFICER CHOLEWA: Let's go off the record.

4 *(Off the record)*

5 HEARING OFFICER CHOLEWA: I'd like to clarify that
6 Employer's Exhibits 1 through 7 have been admitted into the
7 record, and Union's Exhibits 1 through 6 have been admitted
8 into the record as jointly stipulated by the parties.

9 **(Union Exhibits 5 and 6 are received into evidence.)**

10 Employer, please -- you've presented your first
11 witness. Can you please state your name and spell it?
12 Ryan?

13 THE WITNESS: Oh, I'm sorry. Yes. My name is Ryan
14 Coffel. It's R-y-a-n, C-o-f-f-e-l.

15 HEARING OFFICER CHOLEWA: Can I please have you raise
16 your right hand?

17 (Whereupon,

18 **RYAN COFFEL**

19 having been sworn/affirmed, was called as a witness herein
20 via Zoom, and was examined and testified as follows.)

21 HEARING OFFICER CHOLEWA: Thank you.

22 MR. HAASE: Are you ready for me to proceed?

23 HEARING OFFICER CHOLEWA: Yes, please.

24 MR. HAASE: Thank you.

25 **DIRECT EXAMINATION**

1 Q BY MR. HAASE: Good morning, Mr. Coffel. My name is
2 John Haase, and I represent Colectivo in this matter.

3 First, thank you for appearing here today. I know you
4 had modified your schedule to get here to facilitate
5 everybody, so that is appreciated. Thank you.

6 Could you state where you work?

7 A Yes. I work at the Colectivo Coffee in Logan Square in
8 Chicago.

9 Q How long have you worked for Colectivo Coffee?

10 A About three years.

11 Q What locations have you worked at?

12 A Permanently I've worked at Logan Square and Wicker
13 Park. I have worked at other locations in the company.

14 Q Okay. You mentioned that you're current assigned to
15 the Logan Square location. How long have you been assigned
16 to that location?

17 A Since a week before quarantine, so like March of 2020.

18 Q Since that time, what has your position been with the
19 organization?

20 A Shift leader.

21 Q What are a shift leader's responsibilities?

22 A Facilitating -- basically running the floor. Making
23 sure that drinks get out, making sure that everything is
24 running smoothly, handling cash, opening registers, and
25 things of that nature.

1 Q Are you responsible for the café in the absence of the
2 manager?

3 A Yes.

4 Q Are you familiar with the unionization drive at
5 Colectivo?

6 A I am.

7 Q Are you familiar with the Voluntary Organization
8 Committee?

9 A I am.

10 Q And can we agree we'll refer to that as we talk today
11 as the VOC?

12 A Okay.

13 Q Were you a member of the VOC?

14 A Yes.

15 Q Please explain what the VOC was.

16 A It's a voluntary organizing committee that worked to
17 educate our coworkers about the benefits of a union.

18 Q What was the objective of the VOC?

19 A I don't understand the question.

20 Q Did the VOC have an objective for forming and engaging
21 in activities?

22 A I still need more clarification for that.

23 Q Do you know what the word objective means?

24 A Yeah, like something that we were trying to get done.

25 Q Yes.

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1 A I mean the objective would be to unionize the cafes.

2 MR. HAASE: Aaron, could you pull up Employer's
3 Exhibit No. 7, please?

4 Can you see that?

5 THE WITNESS: I can't see anything.

6 MR. HAASE: Well, let me proceed with my questions, and
7 Aaron can work on that in the meantime.

8 Q BY MR. HAASE: Mr. Coffel, was there a time when --
9 Okay, there it is. Mr. Coffel, can you see the document
10 that's been pulled up on the screen?

11 A I can.

12 Q Okay. Take a moment and review it, and then give a
13 verbal indication with what this document is.

14 A Okay.

15 Q What is this document?

16 A This was a document that me and a handful of others, as
17 you can see the names of, sent to the Company, sent to HR
18 when we were going to announce that we wanted to organize a
19 union at Colectivo.

20 Q And you would agree that this letter went to the
21 Company on or about August 6th, 2020?

22 A I would agree with that, yes.

23 Q And it indicates in the letter that the individuals
24 listed, including yourself, were members of an organizing
25 committee under the National Labor Relations Act, correct?

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1 A Correct.

2 Q And the union that you were trying to organize was the
3 International Brotherhood of Electrical Workers?

4 A Yes, sir.

5 MR. HAASE: So, Aaron, you can take that down.

6 Q BY MR. HAASE: Let me direct your attention to --
7 well, let me rephrase the question.

8 During the course of the union campaign through the
9 periods of time when the ballots were due, did the VOC
10 communicate with representatives of the International
11 Brotherhood of Electrical Workers regarding the unionization
12 campaign at Colectivo?

13 A Can you repeat the question?

14 Q Yeah. Let me try and shorten it for you. During the
15 course of the campaign and all the way through the period
16 when ballots were due, did the Voluntary Organization
17 Committee get information from the International Brotherhood
18 of Electrical Workers to use in the campaign?

19 A I guess I don't understand what information. Like we
20 had meetings where we discussed, you know, the campaign, but
21 there wasn't -- yeah, I think that's where I'm at.

22 Q Okay. Did the IBEW provide content for the campaign?

23 A Yes. There were like handouts and sheets that we
24 handed out, yeah.

25 Q And did the IBEW provide the VOC with information about

1 ballots?

2 A The information would be just how to get a replacement
3 ballot if your ballot hadn't arrived yet.

4 Q So the answer is yes, that the IBEW provided the VOC
5 with information about the balloting process, correct?

6 A Yes.

7 Q And then did the VOC use some of the information
8 provided by the IBEW to distribute to potential voters in
9 the election?

10 A Like I said before, the only thing that we had handed
11 out were things about if your ballot hadn't arrived because
12 there was a huge issue with ballots in Chicago, or not
13 ballots but mail in general in Chicago not arriving.

14 Q And my question was just broader than just ballots
15 though. Did the information provided to the VOC by the IBEW
16 about the campaign or campaign materials -- did the VOC then
17 push some of that information out to employees who would be
18 voting in the election?

19 A I am unsure.

20 Q Did you as a member of the VOC routinely meet with
21 members or individuals from the IBEW about the Colectivo
22 campaign?

23 A I did, yes.

24 Q Okay. And in general, with what regularity?

25 A Once a week to twice a week.

1 MR. HAASE: Aaron, would you pull up Union Exhibit No.
2 4?

3 Q BY MR. HAASE: Okay. Mr. Coffel, on the screen is
4 Union's Exhibit No. 4. It's a four-page document which
5 appears to be a text string. Will you take a minute and
6 review that, and --

7 A I'm familiar with this message.

8 Q You are? Okay.

9 A Yes.

10 Q Let's start with page 1 of Exhibit 4. At the top of
11 the message it appears that seven -- well, let me start
12 over.

13 In looking at page 1 of Union's Exhibit 4, can you tell
14 what this document is?

15 A Yes, I can.

16 Q What is it?

17 A This is a text message for the store at Logan Square
18 about getting the ballots in.

19 Q And were you one of the people involved in this text
20 message?

21 A Yes, I was.

22 Q At the top, it indicates that there's a total of seven
23 people. Do you know who the other seven people were that
24 were involved in this text string?

25 A I have an idea, but I don't want to -- I'm unsure about

1 everyone, but I have -- I can list at least four people.

2 Q Okay. Let's one by one, each of the individuals you
3 think or you recall being involved in this text string.

4 A Okay. Caroline Fortin, David Santiago, Rachel Cain,
5 and I want to say Emmeline Ocampo was on there, and Celina
6 Dietzel, and I can't recall the rest.

7 Q Okay. So I caught three of those. Let's just go
8 through them. You said Caroline Fortin. How do you spell
9 her last name?

10 A F-o-r-t-i-n.

11 Q And I remember Rachel Cain. How does she spell her
12 last name?

13 A C-a-i-n I believe.

14 Q Who did you mention next?

15 A Emmeline Ocampo. It's E-m-m-e-l-i-n-e, O-c-a-m-p-o.

16 Q Who else did you remember?

17 A Did I say David Santiago?

18 Q You did.

19 A David, D-a-v-i-d, S-a-n-t-i-a-g-o.

20 Q And then the last name I had written down, was it
21 Celina?

22 A Yes. Celina, C-e-l-i-n-a. Then I believe Dietzel was
23 D-i-e-t-z-e-l or l-e. I can't remember at this point.

24 Q Okay. And then there are two other -- there is one
25 other person in addition to you on this string, correct?

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1 A I believe you are correct, yes.

2 Q Of the five people you just named and spelled their
3 names, is it correct that at the time this text was going
4 around that they were all employees of Colectivo?

5 A That is correct.

6 Q And were they all individuals eligible to vote in the
7 union election?

8 A Yes, they were.

9 Q And at the time this email string went out, you were
10 still a member of the VOC, true?

11 A Correct.

12 Q Now going back to the exhibit, I see a date toward the
13 top, Wednesday, March 17th. Do you see that date?

14 A I do.

15 Q And that would be the -- the year would have been 2021?

16 A It should be, yes.

17 Q And then the first two messages on the left-hand side
18 of them there is the letter R. Do you see that?

19 A I do.

20 Q Does that mean those were the words you typed?

21 A Yes, sir.

22 Q All right. Then as we go down the page -- all right.
23 Well, let me ask you about your second message here. It
24 says, "If you want to mail ballots altogether, the ballot
25 must be sealed before you get to Logan", correct?

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1 A Correct.

2 Q So were you suggesting in this message that coworkers
3 bring their ballots to Logan?

4 A I was suggesting that we meet at a location to walk to
5 the post office together. I wanted to make sure that
6 everyone that worked here got their vote in.

7 Q Right. But the process you were suggesting was for the
8 coworkers to bring their ballots to Logan, right? Logan is
9 the café?

10 A Yes, sir.

11 Q And then from Logan, at some point, you and the other
12 employees would walk together to mail them. That's what you
13 were suggesting?

14 A Yes, sir.

15 Q Did employees, in fact, do that? Did that happen? Did
16 employees bring their ballots to the workplace?

17 A There were four of us that met outside of the store.

18 Q Did these individuals work before you left with the
19 ballots?

20 A We had worked together that day.

21 Q So after they worked, these individuals go home to get
22 their ballots and then come back?

23 A I don't recall.

24 Q Well, what you do recall is they showed up --

25 A They came back, yeah.

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1 Q What did you just say?

2 A I mean -- sorry, continue. I'm sorry.

3 Q Well, I'm trying to understand what happened here. So
4 at some point at least four of these individuals brought
5 their ballots with them to work, correct?

6 A They may have gone home, yeah. I honestly don't
7 recall.

8 Q So you don't -- as you sit here today, you don't
9 remember if the individuals left right after work and had
10 their ballots? You don't know?

11 A I believe David and Rachel did leave to bring their
12 ballots back to work.

13 Q Okay. And the other individuals already had their
14 ballots at work?

15 A I believe -- to be honest with you, I'm not sure
16 because we did not see any ballots until we were putting
17 them in the mailbox.

18 Q When an individual is working, they can't work while
19 they're holding their ballot, right?

20 A Yes, sir.

21 Q So if someone is working and they brought their ballot
22 to work, it would have been in their possession while they
23 were working, correct?

24 A Correct. It would have been with their belongings.

25 Q And how long of a period of time after the group was

1 done working did you leave to go mail the ballots?

2 A Almost immediately.

3 Q Getting back to this exhibit, toward the bottom of page
4 1 of Exhibit 4 there is a name. It says Rachel and then
5 Colectivo. Do you see that?

6 A I do.

7 Q Do you know who Rachel was on this text?

8 A I believe that is Rachel Cain.

9 Q Okay.

10 MR. HAASE: Aaron, go to page 2 of Exhibit No. 4.

11 Q BY MR. HAASE: Mr. Coffel, looking at the top of page
12 2 of Exhibit 4, it looks like this text string started on
13 March 11th. Is that your understanding?

14 A Yeah, sure.

15 Q And you see in the exhibit there are some typed words
16 which are in green highlight, correct?

17 A Yes, sir.

18 Q Do you know who typed those words?

19 A I do not. My guess would be Caroline.

20 Q And why do you think that's Caroline?

21 A Just from what I remember.

22 Q So it's your best recollection sitting here today that
23 the words in the green type are from Caroline. Would that
24 be Fountain.

25 A Fortin, yes.

1 Q Fortin. And was this the first text that began or kind
2 of started this plan that, hey, let's gather with our
3 ballots together and mail them together? Is this when this
4 effort started?

5 A I believe so, yes.

6 Q Outside of this text string, did you communicate with
7 other employees at the Logan location about this plan and
8 invite them to participate?

9 A Outside of Logan Square, no. No, sir.

10 Q But did you communicate with individuals at Logan
11 Square about this plan to gather with their ballots who are
12 not on the text string?

13 A No, sir. Everyone on that text string is a -- was at
14 the time a coworker at Colectivo, Logan Square.

15 Q I'm probably not asking that question real precisely,
16 so bear with me.

17 A That's okay.

18 Q We talked about already that this text string involved
19 seven individuals who were coworkers at the Logan Square
20 location, right?

21 A Yes, sir. And I just want to be clear. That is the
22 exact amount of coworkers at the time that worked at
23 Colectivo Coffee in Logan Square.

24 Q Well, that's a helpful piece of information for me.

25 Thank you. So there were -- at that time, you know, this

1 March timeframe, there were no other coworkers assigned to
2 work at the Logan Square location?

3 A No, sir.

4 Q All right. Looking further down on page 2 of Union's
5 Exhibit 4, do you see the name Sarah Beidatsch, and I'll
6 spell that for the court reporter. It's B-e-i-d-a-t-s-c-h.
7 Do you see her name?

8 A I do, but the screen is moving on me.

9 Q Yeah.

10 A There it is.

11 Q That's page 2 of Union's Exhibit 4, right?

12 A Yes, sir.

13 Q And who is Sarah?

14 A Sarah was a coworker who left the Company during the
15 election period or during when the ballots got mailed out.

16 Q So at the time this text went around on March 11th,
17 Sarah was a Colectivo employee assigned to the Logan Square
18 location?

19 A Either they were or they had just recently left. I
20 cannot recall their exact last days.

21 Q Okay. But you're referring to Sarah in a plural
22 pronoun, so when you're saying they and they're, you're
23 referring to Sarah?

24 A Oh, I believe they go with she pronouns. I'm not sure.

25 Q I just want to make sure the record is clear, so that's

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1 why --

2 A I understand.

3 Q But you were referring to her?

4 A Yes, sir.

5 Q And I don't mean any disrespect if she goes by non-
6 gender specific pronouns, I just want to understand.

7 A Yeah, absolutely.

8 Q And now I've forgotten your answer, but at the time
9 this text string was going around, Sarah was a coworker at
10 Colectivo?

11 A To be honest with you, I do not recall if they were
12 employed at the time because they had left right as the
13 ballots were coming out, so at this point they may have been
14 freshly -- they might have freshly resigned from the
15 Company.

16 Q Is it possible that she resigned and still worked a
17 period of time after the resignation?

18 A It is not possible. I mean are you asking about like a
19 two-week notice or like working during a two-week notice, or
20 are you asking --

21 Q I am asking.

22 A Oh, that is possible, yes.

23 Q Do you know if she did? Do you know one way or the
24 other if that happened with her, with Sarah?

25 A I'm sorry, I do not. I don't recall.

1 Q At one point, Sarah was an eligible voter in the union
2 election, correct?

3 A Yes, sir.

4 Q And would she be the seventh individual on this text
5 string?

6 A Yes, absolutely. She could be if that's who I missed.

7 MR. HAASE: Aaron, let's move to page 3 of Union's
8 Exhibit 4.

9 Q BY MR. HAASE: Mr. Coffel, are you familiar with this
10 page?

11 A Yes.

12 Q So this -- would you agree that page 3 of Union's
13 Exhibit 4 is another text in the same group text we've been
14 discussing?

15 A I would agree with that, yes.

16 Q And again, there are some -- a message that is in green
17 highlight. Do you see that?

18 A Yes, sir.

19 Q Who do you -- do you know who sent that?

20 A I believe that is Caroline Fortin.

21 Q And she sent the green highlighted text on March 20th,
22 2021, correct?

23 A Yes. And just for clarification, they do use they/them
24 pronouns.

25 Q Okay. So when you're referring to Caroline with a

1 pronoun, you'll refer to her as they or them or they're?

2 A Yes, sir.

3 Q Based on my review of this text, it looks like the date
4 that this group of seven brought their ballots together at
5 work then would have been March 21st. Is that correct?

6 A I don't know for sure, but that does sound right.

7 Q But if you read Caroline's text, it says, "Friendly
8 reminder: If you want to mail your ballot after work
9 tomorrow, bring your envelope", correct?

10 A Yes.

11 Q That's in part what it says. Okay. And so do you have
12 any reason to believe that that meeting didn't happen on
13 March 21st?

14 A I do not. I would go with that it did happen on March
15 21st.

16 Q And everyone in this group of seven showed up on the
17 21st at Logan Square with their ballots except you mentioned
18 there might have been two who left work and went to get it
19 and then brought it back, right?

20 A Yes, sir. I do not believe everyone brought them in.
21 It was just -- it wasn't everyone that showed up. It was a
22 handful of us that did.

23 Q Okay. Now let's talk a little bit about page 4 of
24 Union's Exhibit 4.

25 Again, the sequence here is a little bit out of order.

1 You would agree that page 4 shows text messages that started
2 on Friday, March 19th, 2021, correct?

3 A Yes, sir.

4 Q And in the green text, do you know who sent that
5 message?

6 A I don't know. My best guess would be Caroline again.

7 Q Okay. And then you responded to her message in green
8 with the words, "Love it", correct?

9 A Yes, sir.

10 Q Okay. I'm going to take a look at my notes here for a
11 second before I move on, so bear with me.

12 A You're fine.

13 Q For the group of employees who were part of this text
14 string that chose to bring their ballots to the workplace,
15 you don't have any idea what those individuals did with
16 their ballots while they were working, do you?

17 A No, sir.

18 MR. HAASE: Aaron, could you pull up Union's Exhibit
19 6, please?

20 Q BY MR. HAASE: Mr. Coffel, are you -- by the way, am I
21 pronouncing your name correctly?

22 A That's close enough. You're fine.

23 Q Okay. I appreciate that. Can you see Union's Exhibit
24 6?

25 A I sure can.

1 Q Let's just look at page 1. From looking at page 1 of
2 this exhibit, can you tell what it is?

3 A I believe this is the beginning of our planning to have
4 someone to get everyone to vote together.

5 Q Okay. And is this a different text string, at least on
6 page 1, than what we were looking at in Union's Exhibit No.
7 4?

8 A I mean I don't see Sarah's initials. Oh, yes, I do.
9 No, I believe that's the same thing.

10 Q Okay. So at the top of Union's Exhibit No. 6 it
11 indicates there are seven people on this string, correct?

12 A That is correct.

13 Q And then there are circled bubbles at the top with
14 different initials in them, correct? Do you see that?

15 A I do.

16 Q And do those initials represent the participants in the
17 text string?

18 A I believe so, yes.

19 Q And from looking at those initials, can you tell who
20 participated in the text string that's been marked as
21 Union's Exhibit 6?

22 A I can.

23 Q And who are the participants in the text string that's
24 been marked as Union's Exhibit 6?

25 A So we have Sarah Beidatsch, and I don't know how to

1 pronounce her name. I'm sorry. There's myself I believe.
2 That is RC. Emmeline Ocampo, Caroline Fortin, Celina
3 Dietzel, David Santiago, and then the one that I had missed
4 that I can see right now is Daniel, D-a-n-i-e-l, Champion,
5 C-h-a-m-p-i-o-n.

6 Q Were any of these individuals other than yourself ever
7 a part of the VOC to your knowledge?

8 A Caroline Fortin.

9 Q And was she a member of the VOC the entire campaign?

10 A They came out shortly after being hired. I don't
11 recall exactly when they were hired, but the last year has
12 been kind of a blur to be honest with you, sir.

13 Q Was Caroline Fortin a member of the VOC at the time the
14 text strings that have been marked as Union's Exhibit 4 and
15 6 were circulated?

16 A Yes. Yes, they were.

17 Q And again, by they you're referring to Sarah [sic]
18 Fortin?

19 A Yes, yes.

20 Q So turning to page 2 of Union's Exhibit 6, and we're
21 close to being done with this, so I appreciate your
22 patience.

23 A Uh-huh.

24 Q In looking at the green portions of the text on this
25 page, can you tell whether or not Caroline Fortin was the

1 one who typed that portion of the text?

2 A I don't believe it's Caroline Fortin in the green text.

3 Q Who do you think it is?

4 A I believe that's me. Isn't this the same kind of text
5 from Exhibit 1?

6 Q Well, that's what I'm trying to figure out. So let me
7 ask the question that way.

8 A I'm sorry.

9 Q As you look at -- let's try not to interrupt each other
10 just because the court reporter has the unenviable job of
11 trying to create a transcript of what we said, so I know I
12 probably interrupted you, and let's just try to be careful
13 about that to make it easier on our court reporter.

14 My question about Union's Exhibit 6, page 2, in the
15 green portion of the text messages, in looking at this, can
16 you tell who wrote that portion of the text?

17 A I believe that is me.

18 Q Okay. And then below that is Caroline Fortin who
19 texted the muscle arms, correct?

20 A Yes, sir.

21 Q And then at the bottom, is it correct that Rachel Cain
22 started the message that started with the word nice?

23 A Yes.

24 Q Now let's go to page 3 of Union's Exhibit 6. Would you
25 agree that this page represents a text message that Caroline

1 Fortin sent to the seven employees at the Logan Square café
2 on or about Saturday, March 20th?

3 A Yes, sir.

4 MR. HAASE: And, Aaron, let's move to page 4.

5 Q BY MR. HAASE: Ryan, are you familiar with page 4 of
6 Union's Exhibit 6?

7 A Yes, sir.

8 Q Okay. I won't dwell on this very long, but as you look
9 at it, this is -- you would agree that this part of the
10 group text exchange of the seven employees at the Logan
11 Square Colectivo location, correct?

12 A Yes, sir.

13 Q And this text was sent on or about March 16th?

14 A Yes, sir.

15 Q And on page 4 of Exhibit 4, the words that appear to
16 the right of the initials CF, those words were typed by
17 Caroline Fortin?

18 A Yes, sir.

19 Q And the words that appear to the right of the initials
20 RC, those were sent by Rachel Cain?

21 A Yes, sir.

22 Q Just bear with me for a second. I want to check my
23 notes again to see if I missed anything.

24 A No problem.

25 Q I appreciate your patience and time. I don't have any

1 other questions for you right now.

2 A Thank you.

3 HEARING OFFICER CHOLEWA: Mr. Coffel, just to be clear
4 on one part of your testimony. When you said that four
5 employees met to walk with their ballots to the post office,
6 what four employees were you referring to?

7 THE WITNESS: The employees that I recall being there
8 were Caroline, Rachel, David, and myself. Celina could have
9 been there. I just don't remember. I'm sorry.

10 HEARING OFFICER CHOLEWA: Oh, no, no. That's fine.
11 Thank you very much.

12 Ms. Hartley, do you plan to cross examine?

13 MS. HARTLEY: Yes.

14 HEARING OFFICER CHOLEWA: Please proceed.

15 MS. HARTLEY: Okay. Thank you.

16 **CROSS EXAMINATION**

17 Q BY MS. HARTLEY: Ryan, a few questions for you. This
18 is Jill Hartley.

19 A Hello.

20 Q Hi. Just a few questions for you. You were asked some
21 questions about whether during the course of the union
22 campaign through the ballot due date if the VOC communicated
23 with the IBEW and received any information from IBEW reps.
24 Do you recall that question?

25 A I do.

1 Q Okay. And when I say the VOC, I guess I'm interested
2 in your personal knowledge, not -- I know there were a
3 number of members of the VOC, correct?

4 A Correct.

5 Q Okay. And by IBEW reps, you understand that I'm
6 referring to those individuals who are directly employed by
7 the IBEW who were working on the organizing campaign?

8 A Yes, ma'am.

9 Q And were there a number of IBEW reps who you dealt with
10 as a VOC member?

11 A Yes, ma'am.

12 Q All right. And you were asked about any information
13 that you received from the IBEW, and I know you mentioned
14 information regarding getting any replacement ballots if for
15 some reason it didn't reach an employee, correct?

16 A Yes, ma'am.

17 Q Is there any other information that you recall
18 receiving from IBEW reps specifically with regard to ballots
19 during this time period as a member personally of the VOC?

20 A No. The only thing I recall was directions on if
21 ballots don't arrive.

22 Q Okay. And just generally, what was your recollection
23 of what those directions were?

24 A Generally, it was the number to the National Labor
25 Relations Board, like the regional office that we would have

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1 to call to have a ballot overnighted to their house via UPS.

2 Q Okay. And so the instruction was just for the -- you
3 just gave the number to the NLRB office you're saying?

4 A I believe it was like the regional office or the NLRB
5 office or something of that nature to get the ballot
6 overnighted to you.

7 Q Okay, great. With regard to the text exchange, and I'm
8 going to put up Union's Exhibit 4 again for you.

9 MS. HARTLEY: Let me just grab it here. Just one
10 second. I've got the document here. I'm sorry. This is
11 not my forte. It's not showing up here. Do you have any
12 idea why I can't find it here? Oh, there it is. Okay.

13 Q BY MS. HARTLEY: Can you see it?

14 A Yes, ma'am.

15 Q Okay. Sorry about that.

16 A You're fine.

17 Q Okay. So I just want to ask you a few questions about
18 what your testimony was. The first page here, and I'll just
19 scroll down so you can see that I've got Union's Exhibit 4,
20 page 1 of 4.

21 A Yes.

22 Q All right. And so the first two entries, those are
23 yours. Is that correct, Ryan?

24 A Yes, ma'am.

25 Q Okay, gotcha. And you've got in the second text box a

1 reminder for people that this text went to regarding that if
2 you want to mail your ballots altogether that the ballot
3 must be sealed before you get to Logan. Only you can handle
4 your ballot. Did I read that correctly?

5 A Yes, ma'am.

6 Q Okay. And that was the text that went out on March
7 17th, correct?

8 A Correct.

9 Q And then I'm going to direct you to the second page of
10 Union's Exhibit 4, which actually goes back in time. My
11 fault. I'm not in chronological order there. And I'm going
12 to scroll past that to page 3, and it looks like there was
13 another text on March 20th specifically about a reminder,
14 correct?

15 A Yes, ma'am.

16 Q And I believe your testimony was that you thought this
17 text may have been sent by Caroline. Am I right?

18 A Yes, ma'am. I believe so.

19 Q Okay. And again, the reminder was bring your envelope
20 signed and sealed, correct?

21 A Yes.

22 Q All right. And then the final page in this exhibit
23 would have been sent on March 19th. Again, the green text
24 you believe was Caroline?

25 A I believe so, yes.

1 Q And it looks like there was another reminder to make
2 sure that the envelope was signed and sealed before meeting
3 up, correct?

4 A Correct.

5 Q All right. So let's talk about that date, which I
6 believe you thought was, based on these dates on the
7 messages, the 21st of March, correct?

8 A I believe so, yes.

9 Q And you just indicated that you recall Caroline,
10 Rachel, David, and you being present for sure, correct?

11 A Yep.

12 Q And then possibly Celina. Is that correct?

13 A Possibly, but I don't -- I just can't recall. I know
14 for sure Daniel Champion was not there.

15 Q Okay.

16 A I know for sure Emmeline was not. And Celina is the
17 only one that I'm not sure about.

18 Q Okay. What about Sarah? Do you remember whether Sarah
19 was there, Beidatsch?

20 A I want to say -- I'm sorry. I don't recall.

21 Q Okay. That's fine. You know, whatever you remember is
22 what you remember. That's all we're asking for here.

23 And so do you recall that all of the individuals who
24 did meet up after work had actually worked that day?

25 A I believe so, yes, but for sure David and Rachel did.

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1 Q Okay. And you worked that day as well?

2 A Yes, ma'am.

3 Q You were asked some questions about whether people had
4 their ballots with them at the Logan Square location during
5 their shift. Do you have any personal knowledge as to
6 anyone other than yourself and whether they did have their
7 ballot there?

8 A No, I do not.

9 Q Okay. What about you? Did you have your ballot with
10 you that day?

11 A I believe I had brought it and left it in my bag that
12 day.

13 Q Okay. And your bag meaning what? Your personal --

14 A Personal belongings that get put in a closet.

15 Q Where is the closet?

16 A Right in the front of the store.

17 Q Okay. Is that locked?

18 A It is locked. I mean it's not like a padlock, but it's
19 a chain lock or a bar lock. I don't know how to describe
20 it.

21 Q Okay. And when you brought your ballot in, had you
22 already completed it and filled it out?

23 A It was sealed and ready to just be put into an envelope
24 or a mailbox.

25 Q All right. And so the voter kit that you received from

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1 the NLRB, that's obviously got multiple documents within it
2 --

3 A Uh-huh.

4 Q -- including a ballot.

5 A Yes, ma'am.

6 Q And then the ballot goes into an envelope and into
7 another envelope. Is that kind of a fair summary?

8 A Yeah. A blue envelope into a yellow envelope.

9 Q All right. And so when you say you had your ballot
10 with you and it was completed, what document or what did you
11 have with you that was in your bag?

12 A The yellow envelope that was signed and sealed with my
13 name across it.

14 Q All right. And had you done that prior to arriving at
15 Logan Square that day?

16 A Yes, ma'am. I filled it out the day that I got it.

17 Q All right. When you met up with these other coworkers
18 after work, were there any IBEW reps there or was it just
19 Colectivo coworkers you have previously identified?

20 A It was just the Colectivo coworkers that I identified.

21 Q All right. And did you see anyone else's -- well, let
22 me back up.

23 Once you all met up, did other people have ballots with
24 them?

25 A Other people had envelopes with them.

1 Q Okay. That's my question. What was kind of the status
2 or the state of their paperwork that they had with them when
3 you met to go to the post office or to walk to the mailbox?

4 A Yeah. Just the envelopes that were sealed and ready to
5 go.

6 Q The same as yours? The yellow envelope?

7 A Yes, ma'am.

8 Q Did anyone have their ballot out of the envelope that
9 you saw?

10 A Not that I -- well, actually there was a coworker I
11 forgot who was overseeing the store. Hannah Staple. Their
12 ballot -- I don't recall if their ballot was in an envelope
13 when they showed up or not.

14 Q Okay. And so Hannah Staple also would have been one of
15 the individuals who came to the gathering to mail ballots?

16 A Hannah -- yes. Hannah Staple was a shift lead. At the
17 time, a shift lead from Wicker Park who was helping out
18 because we were short-staffed.

19 Q Okay. And I don't see Hannah's name, or I didn't hear
20 you mention Hannah's name in this text string, and I'm
21 scrolling up to the top here of the exhibit page. Do you
22 believe that Hannah was on that text string or not?

23 A I don't believe -- they were not on that text string.

24 Q Okay. And so --

25 A But --

1 Q I'm sorry. Go ahead.

2 A Oh, no, please.

3 Q And so just getting back to when you were actually
4 outside Logan Square -- is that where you -- outside of the
5 Logan Square location. Is that where you met?

6 A Yes.

7 Q With the ballots?

8 A Yes, with the envelopes, yes.

9 Q Okay. And so you indicated you're not sure what the
10 status of Hannah Staple's envelope was or ballot was?

11 A That is correct.

12 Q Okay. Did you help anyone or assist anyone in
13 completing their ballot on that date, on the 21st?

14 A No, ma'am.

15 Q Did you ever during the course of the time that ballots
16 were out assist anyone in completing their ballot?

17 A No, ma'am.

18 Q Did you ever see anyone marking their ballot on that
19 date, on the 21st?

20 A No, ma'am.

21 Q Did you ever handle anybody else's ballot on the 21st?

22 A No, ma'am.

23 Q All right.

24 A The instructions on the ballot packet were very clear
25 that you could not handle anyone else's.

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1 Q The ballot packet meaning what you received from the
2 NLRB?

3 A I believe, yes. With the voter kit. I believe it said
4 only you could handle it.

5 Q Okay. And so on that date on the 21st when you all met
6 up, what was the actual process once you were all gathered
7 outside of Logan Square?

8 A Of course. The Logan Square location is right around
9 the corner from a U.S. Postal Service location, and so
10 basically, we all got off of work, we then just walked
11 together to walk over to the mailbox, and one by one put the
12 envelopes in the mailbox, and then I believe we all went
13 home.

14 Q Okay. One of the text messages refers to maybe having
15 a drink afterwards. Did you go and do that?

16 A I don't recall to be honest with you.

17 Q Okay. And so did you each place your envelope in the
18 mailbox yourself?

19 A Yes, ma'am. It was very like symbolic. It was like a
20 single file line of just putting it in, closing it, putting
21 it in and closing it.

22 Q Okay. And each person did that themselves?

23 A Yes, ma'am.

24 Q All right. And were all of the -- to your knowledge,
25 were all of the envelopes already signed when people came?

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1 A To my knowledge, yes. To be honest with you, I did not
2 look at anyone's ballot to make sure. It was more just -- I
3 just asked do you have your envelope signed. Great. Let's
4 walk over to the post office.

5 Q Okay. Did you see anyone sign their ballot that date
6 when you were outside of Logan Square?

7 A No, ma'am.

8 Q Okay. All right. I'm going to take this exhibit down,
9 and then I want to show you -- give me one second here. I'm
10 going to show you Union's Exhibit 6. Bear with me. I think
11 it's in here. Okay. Here we go.

12 All right. So can you see Union's Exhibit 6 up on the
13 screen, Ryan?

14 A Yes, ma'am.

15 Q All right. And I just have a question about I believe
16 the last page. Well, let me go to the second page of
17 Union's Exhibit 6 here. There are two messages up in green
18 there that I believe you indicated you thought were yours.

19 A Yes, ma'am.

20 Q All right. And again, it looks like you gave a
21 reminder about people sealing their ballots before getting
22 to Logan.

23 A Yes, ma'am.

24 Q All right. And then I'm scrolling to the next page,
25 and this was Caroline's message again with that reminder

1 about bringing the envelope sealed and signed, correct?

2 A Yes, ma'am.

3 Q And then the last page, I just want to make sure I
4 understand who the messages were from. Up at the top there
5 I see Caroline's name and then next to that first entry her
6 initials, correct?

7 A Correct.

8 Q And then the next entry appears from the name up at the
9 top and the initials to be Rachael Cain, correct?

10 A Yes, ma'am.

11 Q And then I was unsure. The green box there, the green
12 text there, do you know who that is? Is that Caroline's or
13 is the Caroline Fortin reference for the black text below?
14 Do you know?

15 A I believe the green text is me, ma'am.

16 Q Okay. All right. And what was going on there? Do you
17 recall this text exchange about trying to call again
18 tomorrow?

19 A Yes, ma'am. Rachel had not received their ballot.
20 Like I said, Rachel lives in the same neighborhood as I do,
21 and we had huge problems with the post office not delivering
22 mail, and since I had gotten my ballot, I believe I was
23 letting her know to try and call again tomorrow. I believe
24 the "wheel" was in autocorrect. That was supposed to be
25 well. "Try calling tomorrow". But that was direction to

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1 get Rachael's ballot that had not shown up yet.

2 Q Okay. Did you ever all the NLRB to ask them to provide
3 a ballot to anyone other than you?

4 A No, ma'am.

5 Q Did you have to contact them to get a replacement
6 ballot?

7 A I did.

8 Q All right. Okay. Thank you. Were there any other
9 occasions, Ryan, other than this March 21st time that we
10 heard you testify about where you were in attendance with
11 anyone else when they mailed their ballot?

12 A No, ma'am.

13 Q So the other employees at the Logan Square location who
14 didn't go with you to the post office on the date that we've
15 discussed, do you know -- you know, do you know what they
16 did with their ballots?

17 A I believe they mailed them, but I don't know. Yeah.
18 My guess would be --

19 Q You weren't there when they did it?

20 A Yeah, exactly. Daniel never responded. He was never a
21 group texter, so he was not there and did not show up.

22 Q Okay. And you didn't mail anyone else's ballot for
23 them?

24 A Oh, no. No, no.

25 Q Okay, Ryan, I think that's all the questions that I

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1 have for you.

2 A Thank you.

3 Q Thank you.

4 HEARING OFFICER CHOLEWA: All right. Employer, would
5 you care to redirect?

6 MR. HAASE: Yes, I would. Thank you.

7 **REDIRECT EXAMINATION**

8 Q BY MR. HAASE: Ryan, you mentioned that on the day the
9 group gathered with their ballots that you brought your
10 ballot to the workplace and put it in a bag in a closet,
11 correct?

12 A Yes, sir. It was a sealed -- it was sealed in the
13 envelope in my personal bag in the closet.

14 Q Where in the café is this closet located?

15 A Front of the house.

16 Q And what does front of house mean?

17 A I'm sorry. So in the -- like in the front of the café
18 near where folks would be at all the time, like there would
19 be -- there's a little closet like right when you walk in,
20 like right before the door to go into the door where the
21 backroom is, if that makes sense.

22 Q Do other individuals have access to this closet where
23 your ballot was located?

24 A Yes, they do.

25 Q And who else would have access to that closet?

1 A Anyone working.

2 Q And approximately how many Colectivo employees work on
3 any given day? In other words, what's the standard
4 staffing?

5 A I want to say at that time it was maybe four or maybe
6 five people a day.

7 Q What about the public? Does the public pass this
8 closet if they enter into the café?

9 A The public can stand next to it, yes. I believe at
10 that point they were not allowed to though due to Covid, the
11 Covid policies. I believe we had directed people away from
12 that area.

13 Q Now you mentioned an individual named Hannah Staples.
14 Did I get that name right?

15 A Yes, sir.

16 Q And was she an individual working at the Logan Square
17 location on the day you and other employees gathered with
18 your ballots to mail them?

19 A Yes, sir.

20 Q And so was she invited to participate in that effort?

21 A She was invited verbally, yes.

22 Q Did you invite her?

23 A I believe Caroline did.

24 Q Caroline Fortin?

25 A Fortin, yes, sir.

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1 Q And you mentioned with respect to Hannah, you don't
2 know whether or not her ballot was in the envelope. You
3 don't know the condition of her ballot when she brought it
4 to the café?

5 A I do not, sir.

6 Q Now it's true that you did not -- with respect to
7 coworkers or Colectivo employees who brought their ballots
8 to the café on the day that you mailed them as a group, you
9 did not inspect those ballots at the time the individuals
10 brought them to the café, did you?

11 A No, sir, I did not touch anyone's ballot besides
12 myself.

13 Q You didn't even inspect them, did you? You didn't say,
14 here, hold on to your ballot so I can see its condition?

15 A Can you -- I guess I don't understand the question.
16 Like, are you asking -- sorry.

17 Q I think you testified earlier that at least some of
18 these employees brought their ballots to work that day,
19 correct?

20 A Correct.

21 Q At the time those individuals arrived at the café with
22 their ballots, you did not inspect their ballots, did you?

23 A I did not.

24 Q You didn't see their ballots until you gathered after
25 work, correct?

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1 A Correct.

2 MR. HAASE: No other questions.

3 HEARING OFFICER CHOLEWA: Petitioner, would you like
4 to recross?

5 MS. HARTLEY: Yeah, just briefly.

6 **RECROSS EXAMINATION**

7 Q BY MS. HARTLEY: Ryan, I just want to make sure I
8 understand. Do you actually have knowledge that anyone had
9 their ballot in the café while they were working other than
10 yourself?

11 A I do not, no.

12 Q Okay. All right. And your ballot that you had in your
13 bag in the closet, is that a closet that the public could
14 use to place anything in?

15 A No, ma'am. It's just for Colectivo employees.

16 Q All right. And you mentioned something about the
17 public being kept away from that particular area because of
18 Covid. What did you mean?

19 A I believe at that point we were still being socially
20 distant, and we were directing everyone to stand about six
21 feet away, and we had like chairs that were in that area, so
22 only Colectivo coworkers could walk past that.

23 Q Okay. And I've never been to your particular location
24 at Logan Square. Do you typically have seating for people,
25 for customers, inside the store?

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1 A We do now, but at the time we did not.

2 Q All right. So back on March 21st, I assume because of
3 Covid, you're saying --

4 A I believe so, yeah.

5 Q Okay.

6 A I don't recall when we started allowing customers to
7 sit inside.

8 Q Okay, okay. Understood. And when you retrieved your
9 personal bag at the end of your shift, was your envelope
10 with the ballot inside still in your bag?

11 A Yes, ma'am.

12 Q Was it changed at all from when you had placed it in
13 there that morning?

14 A No, ma'am.

15 Q It was still sealed?

16 A Yes, ma'am.

17 Q No one had broken the seal?

18 A No, ma'am.

19 Q Okay.

20 MS. HARTLEY: Okay. That's all I have.

21 HEARING OFFICER CHOLEWA: Employer, would you like to
22 redirect?

23 MR. HAASE: Yes, thank you. Very briefly.

24 **REDIRECT EXAMINATION**

25 Q BY MR. HAASE: Mr. Coffel, I think you previously

1 described that at the end of the shift on the day you and
2 your coworkers gathered to deliver ballots that the delivery
3 of those ballots happened immediately after the shift
4 ending, correct?

5 A Yes, sir. I mean -- yeah.

6 Q Coworkers didn't leave the café and they were gone for
7 a period to retrieve their ballots, right? They had their
8 ballots?

9 A I don't recall, but yes, they should have had their
10 ballots. They should have had their envelopes.

11 MR. HAASE: No other questions.

12 HEARING OFFICER CHOLEWA: Union, would you like to
13 recross?

14 MS. HARTLEY: No, nothing from me.

15 HEARING OFFICER CHOLEWA: Okay. All right. Mr.
16 Coffel, you weren't here at the beginning, but we did
17 sequester the witnesses. So what that means is I'm going to
18 ask that you not discuss your testimony with any other
19 witnesses until the hearing is completed. I am going to put
20 you in a breakout room at this point just in case you need
21 to be recalled back at any time. Do you have any questions
22 about the sequestration?

23 THE WITNESS: How -- no, I don't.

24 HEARING OFFICER CHOLEWA: Okay. I am going to put you
25 into a breakout room.

1 Okay. Thank you very much. Employer, do you want to
2 call your next witness? You're muted.

3 MR. HAASE: My apologies. We would call Jessica
4 Ochocki.

5 MS. HARTLEY: Hearing Officer Cholewa, if I could
6 interrupt. I apologize. Would it be possible if we could
7 let Mr. Coffel go? He's actually on vacation, and if there
8 was a need to recall him, to text him, would that be all
9 right with you? I'm just trying to be respectful of his
10 time off. He's actually out of the country on vacation.
11 And I would hate to just hold him up there indefinitely.
12 But I mean I will respect whatever your decision is on that
13 with the instruction, obviously, that he can't communicate
14 with anyone, but I don't think there's anyone in Puerto Rico
15 with him that he would talk to.

16 HEARING OFFICER CHOLEWA: Mr. Haase, what is your
17 position on that?

18 MR. HAASE: We would not object so long as there's a
19 specific instruction that he's not to communicate via any
20 means with anyone from the IBEW, their counsel, or other
21 witnesses in any manner related to this hearing.

22 HEARING OFFICER CHOLEWA: Okay. Let's get him back
23 in, and I will release him with the understanding that he is
24 not to discuss this matter and that he should keep his phone
25 on in case we need him back.

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1 MS. HARTLEY: Thank you so much. I appreciate that.

2 HEARING OFFICER CHOLEWA: Let's see. I'm trying to
3 move him, but he may need to click it.

4 MS. HARTLEY: There he is.

5 THE WITNESS: So sorry. I was in the bathroom.

6 HEARING OFFICER CHOLEWA: No, no problem. The
7 Petitioner brought it to our attention that you're on
8 vacation, and they have requested that you be released since
9 you're on vacation at this time. And the Employer did not
10 object, so we are going to release you with the
11 understanding that you do not communicate with anybody in
12 these proceedings while the hearing is in session and with
13 the understanding that I ask that you keep an eye on your
14 phone at least a little bit just in case we do need to
15 recall you.

16 THE WITNESS: I promise you, ma'am, I'm on vacation.
17 I do not want to talk to anyone except where I'm at right
18 now.

19 HEARING OFFICER CHOLEWA: All right. Thank you very
20 much and enjoy the rest of your vacation.

21 THE WITNESS: Thank you so much. Bye, bye.

22 *(Witness excused)*

23 MS. HARTLEY: Thank you again. I apologize for the
24 interruption, but I appreciate the accommodation.

25 HEARING OFFICER CHOLEWA: No apologies needed. I'm

1 not sure I would want to stay on either. All right.

2 So how do you pronounce her name, Ms. Ochocki?

3 MR. HAASE: I think it's Ochocki, but I would
4 definitely defer to maybe Ms. Hill if I'm saying it wrong.

5 MS. HILL: I believe it's Ochocki.

6 MR. HAASE: Ochocki. Thank you.

7 HEARING OFFICER CHOLEWA: Okay. It looks like she may
8 have left the hearing. If somebody would -- can we go off
9 record, please?

10 (Off the record)

11 HEARING OFFICER CHOLEWA: On the record.

12 (Whereupon,

13 **JESSICA OCHOCKI**

14 having been sworn/affirmed, was called as a witness herein
15 via Zoom, and was examined and testified as follows.)

16 HEARING OFFICER CHOLEWA: Can you please state your
17 name and spell it for the record?

18 THE WITNESS: My name is Jessica Ochocki. J-e-s-s-i-
19 c-a, O-c-h-o-c-k-i.

20 HEARING OFFICER CHOLEWA: Okay. I will let you know
21 that since we are doing this by Zoom, I ask that you try not
22 to talk over anyone or interrupt anyone just so that the
23 court reporter can have clear record.

24 Ms. Haase, if you would like to proceed.

25 MR. HAASE: Yes, thank you.

DIRECT EXAMINATION

1

2 Q BY MR. HAASE: Jessica, where do you work?

3 A I work at Colectivo Coffee at the Humboldt location.

4 Q How long have you worked for Colectivo?

5 A Since September of 2017.

6 Q What is your current position?

7 A Currently, I am the café manager or the GM of the
8 Humboldt location.

9 Q How long have you been in that position?

10 A About a year now.

11 Q Approximately how many employees are there under your
12 supervision as manager of the Humboldt location?

13 A Approximately 23 to 25.

14 Q And has that number been generally consistent during
15 the entire time you've been managing that location?

16 A Yes, it has.

17 Q And the individuals you supervise, the 23 to 25, were
18 those individuals eligible to vote in the union campaign?

19 A Yes, they were.

20 Q Do you know someone named Nathan Danford?

21 A Yes, I do.

22 Q How do you know him?

23 A He was a prior employee at Colectivo.

24 0 What position did he have?

25 A He was a manager or a shift lead at my location, which

1 is the Humboldt location.

2 Q Was he a manager or a shift lead?

3 A Shift lead.

4 Q Was he employed at the Humboldt location during the
5 time the union election was happening?

6 A Yes, he was.

7 Q Was there a time when you found an envelope addressed
8 to Mr. Danford in the Humboldt café location from the
9 National Labor Relations Board?

10 A Yes, I did.

11 Q Please describe what happened, where you found the
12 envelope, when you found it, and those types of details.

13 A I was coming in to open a shift, which could be
14 anywhere from 5:45 in the morning to 6:00 a.m., which is
15 typically when I get in. I was counting a drawer down, and
16 I noticed right next to our card reader, or I'm sorry, our
17 coin reader is a printer, and I noticed a large manila
18 envelope with Nathan Danford's name on it. He goes by Nate,
19 so seeing Nate Danford drew my attention right away. I then
20 noticed it, took a picture of it, and sent it to LaShonda
21 and put the envelope inside a safe, which is passcode
22 accessed.

23 Q Okay. Do you remember the date when you found this
24 envelope?

25 A Unfortunately, I do not.

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1 MR. HAASE: Aaron, could you pull up Employer's
2 Exhibit No. 1?

3 Q BY MR. HAASE: Okay. Jessica, you should be able to
4 see a document that's been marked as Employer's Exhibit No.
5 1. Are you able to see it?

6 A Yes, I am.

7 Q And can you tell me what this document is to your
8 knowledge?

9 A That is the envelope that I acknowledged that morning,
10 and to my knowledge, I believed it to be a ballot vote.

11 Q A ballot vote you said?

12 A The vote ballot. Yes, that's what I believed it to be.

13 Q Okay. And so this is a picture of the ballot you
14 found?

15 A That's correct.

16 Q Who took the picture?

17 A I did. That's my hand right there in the corner.

18 Q All right.

19 MR. HAASE: So, Aaron, you can take that down now.

20 Q BY MR. HAASE: You mentioned that you found Mr.
21 Danford's ballot when you entered the café on a particular
22 morning. Is that right?

23 A That's correct.

24 Q Were you the first person in the café that morning?

25 A Yes, I typically am.

1 Q And prior to arriving that morning, when was the
2 previous time you were in the café?

3 A The day prior. So the day before.

4 Q With respect to the day before the date that you found
5 the ballot, what time did you leave the café that day?

6 A Typically, I leave the café between 2:00 to 3:00 p.m.,
7 so it was between then.

8 Q And after you left the café between 2:00 and 3:00 p.m.
9 the day prior to finding the ballot, did the café remain
10 open that day?

11 A Yes, it did.

12 Q And on that prior day, did you see Mr. Danford's ballot
13 anywhere in the café?

14 A No, I did not.

15 Q After you left the café on the day prior to finding the
16 ballot, how many employees would have been present for the
17 rest of that shift in the café?

18 A Anywhere from 9 to 11.

19 Q Do you have any idea when the ballot arrived?

20 A I do not.

21 Q You mentioned you found it near a printer. Is that
22 right?

23 A That's correct. On top of the printer.

24 Q Where in the café is that printer located?

25 A It is located behind the counter in a back office.

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1 Q Is that office locked or do other employees of
2 Colectivo have access to it while they're working?

3 A It is not locked. Other employees do have access to
4 that.

5 Q When you found Mr. Danford's ballot in the office --
6 let me rephrase the question.

7 You mentioned that other coworkers have access to the
8 office where you found Mr. Danford's ballot. Do employees
9 regularly go into that office for one reason or another?

10 A Yes, very regularly. It's kind of where we keep all of
11 our belongings. It's our employee office, so not just mine,
12 but for all 23 or 25 of those employees at the time.

13 Q Very good. After you found the ballot, you took a
14 picture of it and then what did you do with it?

15 A After I found the ballot, I took a picture of it, sent
16 the picture to LaShonda, and put the ballot itself in a
17 locked safe.

18 Q All right. And when you refer LaShonda who are you
19 referring to?

20 A I am referring to Colectivo's HR Director, LaShonda
21 Hill.

22 Q The safe where Mr. Danford's ballot, where you placed
23 Mr. Danford's ballot, are you the only individual employee
24 who has access to that safe?

25 A No, I am not. All of my shift leads have access to

1 that safe.

2 Q To your knowledge, did shift leads have the right to
3 vote in the union election?

4 A To my knowledge, yes, they did.

5 Q After you put it in the safe, did you visually see what
6 happened to the ballot after that?

7 A No, I did not.

8 Q Do you have any personal knowledge of what happened to
9 it after that?

10 A No, I do not.

11 Q And did you remove the ballot from the safe?

12 A No, I did not.

13 Q And do you know whether or not -- well, strike that
14 question. I'm going to change gears now, Jessica, and ask
15 you a couple of questions about a Facebook chat group.

16 During the time you were -- during the time of the
17 union campaign and election, were you a participant in a
18 Facebook chat group that included other employees at the
19 Humboldt location?

20 A Yes, I was.

21 Q And how many individual coworkers were included in that
22 Facebook chat group?

23 A At the time it would have been that number between 23
24 to 25.

25 Q Did you have any role in the creation of that chat

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1 group?

2 A Yes. I actually created the chat group intended for
3 Colectivo café news and knowledge.

4 Q When did you create the chat group?

5 A I created it a week or two upon my arrival. So it
6 would have been mid-October or maybe early November.

7 Q What type of information did you communicate on that
8 chat group?

9 A I communicated any shifts that were needed, any type of
10 SOPs, which are how we kind of communicate our drink
11 knowledge and how to make those, as well as just any Covid
12 information that I got. It was intended to be a very quick
13 way of getting the knowledge to my employees.

14 Q Was there a point in time after the union ballots went
15 out that any individuals in that Facebook chat group started
16 communicating about the ballots for the union election?

17 A Yes.

18 Q Do you recall who was communicating about that topic?

19 A It was primarily Hillary Laskonis.

20 Q Could you spell her last name?

21 A L-a-s-k-o-n-i-s.

22 Q Do you know if Ms. Laskonis was a member of the
23 Voluntary Organization Committee?

24 A I believe she was, yes.

25 Q What do you recall about Ms. Laskonis' messages as they

1 related to the ballots for the union election?

2 A I just recall them stating and making sure your address
3 was updated and correct, and if you needed assistance or had
4 any questions or concerns, to contact her.

5 Q And these messages, were they going to the 20 or 23
6 Humboldt location employees who would be voting in the union
7 election?

8 A Yes, they were.

9 Q What was the approximate frequency of these messages
10 related to ballots?

11 A I would say it was pretty frequent. A couple of times
12 a week. Definitely not daily, but it was enough where I
13 decided to remove myself from the group.

14 Q But why did you make that decision?

15 A I believed it was a clear decision that I needed to
16 make as I did not have vote in the union, nor did I want to
17 be part of that conversation at all.

18 Q Did you retain any of those messages from that Facebook
19 chat group to your knowledge?

20 A No, I did not.

21 MR. HAASE: I don't have any other questions at this
22 point.

23 HEARING OFFICER CHOLEWA: Ms. Hartley, would you like
24 to cross?

25 MS. HARTLEY: Yes, thank you.

1 **CROSS EXAMINATION**

2 Q BY MS. HARTLEY: Ms. Ochocki, my name is Jill Hartley.
3 I represent the Union in this matter. I have a few
4 questions for you about your testimony. Okay?

5 A Okay.

6 Q And I understand that you said you've been in your
7 position at the Humboldt café location for about a year, so
8 we're talking you would have started in that café manager
9 job in 2020 of the September/October timeframe. Is that
10 accurate?

11 A Yes.

12 Q And were you at the Humboldt location continuously
13 since you started back in September 2017 and previous
14 positions?

15 A Yes.

16 Q I guess my question is have you spent all of your
17 employment with the Company at the Humboldt café?

18 A I apologize. No, I did not.

19 Q Okay. All right. Where did you start?

20 A I actually started at Wauwatosa, then moved to the Lake
21 Front, and then to the Humboldt location.

22 Q Okay. And so when was -- was the Humboldt location --
23 when did you first start at that location? Was it when you
24 became the café manager or before?

25 A When I became the café manager.

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1 Q Okay. Thank you. So I'm going to ask you some
2 questions about the ballot, the envelope that you found with
3 Mr. Danford's name on it. We saw the photograph that you
4 took, Employer's Exhibit 1. And I understand you don't
5 recall what date you found the envelope, correct?

6 A That's correct.

7 Q The envelope you said was on a printer. And I wrote
8 down behind a counter in a back office. Is that accurate?

9 A Yes. What I mean by behind the counter, I mean behind
10 the operations of the café to where we prep and make drinks
11 and serve our customers. There are two double doors that
12 lead into another room, which we call the back office.

13 Q Okay. So it was in that back office, which would not
14 be accessible to anyone other than a coworker, correct?

15 A Correct.

16 Q Okay. And the envelope when you found it, was it
17 sealed?

18 A It was sealed on the back with a piece of clear tape.

19 Q Okay. Was it -- was that the only seal that was on it,
20 a piece of clear tape?

21 A Yes.

22 Q Okay. Could you tell whether the envelope had been
23 licked, I guess for lack of a better term? I mean typically
24 there's a glue on the back of an envelope. Could you tell
25 whether that had been done?

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- 1 A No, I could not.
- 2 Q So you don't know one way or another?
- 3 A That would be correct.
- 4 Q Okay. You know that there was tape over it?
- 5 A Yes.
- 6 Q And you couldn't open it at that point?
- 7 A No, nor did I.
- 8 Q Okay. So you have no idea what was in the inside of
- 9 the envelope, correct?
- 10 A Correct.
- 11 Q And so I understand you took a photograph of it, and
- 12 you sent it to Ms. Hill. Was that shortly after you found
- 13 it on that day?
- 14 A Yes, I believe so.
- 15 Q Okay. How did you send the photograph to Ms. Hill?
- 16 A I think my initial one would be a text?
- 17 Q Okay. Did you say anything in the text message along
- 18 with the photograph?
- 19 A I believe I said, "This is strange". I don't actually
- 20 recall.
- 21 Q So you don't know what you said in the text message?
- 22 A I do not recall. That's correct.
- 23 Q Okay. And did Ms. Hill respond to your text message?
- 24 A I believe she did.
- 25 Q And what her response if you recall?

1 A I do not recall.

2 Q And so then you placed the envelope in the safe,
3 correct?

4 A Yes.

5 Q And did you do anything more in regard to that
6 envelope? Did you ever contact Mr. Danford and let him know
7 that you had located this envelope with his name on it?

8 A Yes, I did. I told him there was an envelope waiting
9 for him in the safe.

10 Q Okay. And how did you do that? Did you do that
11 through a verbal conversation or through some messaging
12 system?

13 A That would also have been a text.

14 Q Okay. And when did you send that text?

15 A I don't recall the exact time, but I sent it shortly
16 after I informed Ms. Hill.

17 Q And do you recall other than telling him that there was
18 an envelope for him in the safe did you say anything else?

19 A No, I did not.

20 Q Did you tell anyone else other than Ms. Hill and Mr.
21 Danford about the ballot?

22 A No, I did not.

23 Q And did Mr. Danford work on that day that you located
24 the ballot, the envelope?

25 A I don't believe he did, but I do not recall.

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1 Q Okay. Had he worked the previous day, the day before
2 you found the envelope?

3 A I don't believe so.

4 Q When you sent him the text notifying him that there was
5 an envelope for him in the safe, did he respond?

6 A I don't recall what he said.

7 Q Okay. And did you -- after that day that you located
8 the ballot and placed it in the safe, did you see him remove
9 the ballot from the safe at all?

10 A No, I did not.

11 Q Did you see anybody else remove it?

12 A No, I did not.

13 Q Did you see anyone touch it after you placed it in the
14 safe?

15 A No, I did not.

16 Q So you don't have any idea whether Mr. Danford picked
17 it up after that point is what you're telling me?

18 A That would be correct.

19 Q And at some point after the time that you put it in the
20 safe, did you go back to the safe and determine that it was
21 no longer there?

22 A No, I did not. I had the next following day I believe
23 off, so I did not check to see.

24 Q Well, I assume you checked it sometime after the time
25 that you put it in there, correct?

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1 A Yes.

2 Q Okay. I mean it's not still in there obviously, right?

3 A Correct.

4 Q So at some point did you determine that it was no
5 longer in the safe?

6 A Yes.

7 Q Okay. Do you know when that was?

8 A I don't recall.

9 Q Did you ever have any conversation with Mr. Danford
10 about the envelope? I'm sorry. Other than the text
11 exchange?

12 A Yes.

13 Q Okay. And when would that have been in relation to the
14 day that you located the envelope?

15 A That would have been the next shift I worked with him.
16 I personally do not recall what day that was.

17 Q Okay. And what was your discussion with him at that
18 point?

19 A I just asked him why the envelope was there or what it
20 was, and he just told me that his ex-girlfriend dropped it
21 off for him.

22 Q Okay. Did he indicate to you whether he had retrieved
23 it from the safe at that point?

24 A I don't recall him saying that.

25 Q Okay. And do you know that as of that conversation

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1 during the next shift that you and he both worked whether it
2 was still in the safe?

3 A I don't recall.

4 Q But am I correct that at no time you never saw the
5 envelope unsealed?

6 A Correct.

7 Q All right. With regard to the Facebook chat group that
8 you referenced, you indicated that you created it when you
9 first came to the store in your position as the café
10 manager. Is that correct?

11 A Yes.

12 Q Did it have like any sort of a group name?

13 A Humboldt Colectivo.

14 Q Okay. And was it set up so that anyone could post
15 something within that chat?

16 A Anyone that was in it, yes.

17 Q And you testified that sometime during the campaign
18 process that you recall Ms. Laskonis posting some messages
19 regarding making sure that coworkers' addresses were correct
20 for purposes of receiving ballots. Is that accurate?

21 A Yes.

22 Q Okay. And you also said that recall some statement to
23 the effect by Ms. Laskonis that they if they needed
24 assistance to contact her?

25 A Yeah.

1 Q Okay. What assistance was she offering to provide in
2 those messages?

3 A Where to correct your address or how to correct your
4 address.

5 Q Okay. And was she giving some -- do you recall her
6 ever giving like a phone number for the National Labor
7 Relations Board?

8 A I believe so.

9 Q And so other than messages that you saw regarding
10 address corrections, did you see Ms. Laskonis post anything
11 else within that group Facebook chat prior to you leaving
12 the group?

13 A I believe there may have been a post about the Social
14 Saturdays, but that's all I can recall.

15 Q Okay. And were you familiar with Social Saturdays?

16 A No. I never participated.

17 Q Okay. So you wouldn't have any idea what went on
18 during those Social Saturdays?

19 A That's correct.

20 Q Did you ever see anyone comment on any post that Ms.
21 Laskonis put up regarding getting address changes to the
22 NLRB?

23 A No, but you could like like it. Just people would like
24 the message with no comment.

25 Q Okay. What about the Social Saturdays? Did you ever

1 see anyone comment on any of those posts she put up?

2 A No. I don't recall.

3 Q Okay. And so other than posts about Social Saturdays
4 and address corrections or changes with the NLRB, you don't
5 recall Ms. Laskonis putting up anything else on that
6 Facebook chat before you left?

7 A That would be correct.

8 Q Okay. And I understand you didn't maintain any screen
9 shots regarding any of those posts, correct?

10 A Correct.

11 Q Did you ever in that Facebook chat comment or respond
12 to any of Ms. Laskonis' posts about ballots or address
13 changes or Social Saturdays?

14 A No, I did not.

15 Q Do you recall when you removed yourself from the group
16 in relation to ballots being distributed or mailed out?

17 A Unfortunately, I do not.

18 MS. HARTLEY: That's all the questions I have.

19 HEARING OFFICER CHOLEWA: Employer, do you want to
20 redirect?

21 MR. HAASE: No, ma'am.

22 HEARING OFFICER CHOLEWA: Okay. I just have one
23 question for you. You mentioned that Mr. Daniel's [sic] ex-
24 girlfriend dropped it off for him. Was she an employee of
25 Colectivo? Do you know?

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1 THE WITNESS: No. I'm sorry to cut you off. No, she
2 was not.

3 HEARING OFFICER CHOLEWA: Okay. Thank you. That was
4 the only question I had. And I would like to remind you
5 that you're not to discuss your testimony with any other
6 witness until the hearing is completed, and I'm going to put
7 you back into a breakout room. Thank you very much. One
8 moment.

9 *(Witness excused)*

10 Okay. Employer, do you have another witness to
11 present?

12 MR. HAASE: We do. Could we take a 5-minute break?

13 HEARING OFFICER CHOLEWA: Sure. Let's go off the
14 record.

15 *(Off the record)*

16 HEARING OFFICER CHOLEWA: Employer, please call your
17 next witness.

18 MR. HAASE: Hillary Laskonis.

19 HEARING OFFICER CHOLEWA: I've sent her the invite.

20 MR. HAASE: I know she was on earlier.

21 HEARING OFFICER CHOLEWA: She appears to be on, and
22 I've sent her the invite, however, she is not joining. One
23 moment. Can we --

24 Hello, Ms. Laskonis, how are you doing?

25 THE WITNESS: I'm doing well. How are you?

1 HEARING OFFICER CHOLEWA: I'm doing well. Thank you.
2 I am going to swear you in at this time, and then I'll ask
3 you to state your name and spell it for the record.

4 While we are doing testimony to ask that you speak
5 clearly and try not to interrupt anyone else speaking so
6 that the court reporter can create a clear and concise
7 record. So if you can, can I have you raise your right
8 hand?

9 (Whereupon,

10

HILLARY LASKONIS

11 having been sworn/affirmed, was called as a witness herein
12 via Zoom, and was examined and testified as follows.)

13 HEARING OFFICER CHOLEWA: Thank you. Please go ahead,
14 Mr. Haase.

15 MR. HAASE: Thank you.

16

DIRECT EXAMINATION

17 Q BY MR. HAASE: Good morning, Ms. Laskonis. Thank you
18 for participating today.

19 You're here at least in part by virtue of a subpoena
20 that we served on you. Is that correct?

21 A Yes, that's correct.

22 Q And this morning at 8:18 you sent me an email with
23 documents that were responsive to that subpoena. Is that
24 correct?

25 A That's correct.

1 Q And was it just the one email that you sent me at 8:18?

2 A Yes.

3 Q That was everything you could find?

4 A Yes.

5 Q Could you explain where you -- what your efforts were
6 to find documents responsive to that subpoena? In other
7 words, you know, where did you look for them, where did you
8 find them, and that sort of thing?

9 A Okay. Well, I first went through my café roster from
10 the time that is listed in the subpoena. I went through
11 each of my Facebook messages with those employees back to
12 the dates that are in question and did my best just to
13 locate everybody in my own café that I may have spoken to.
14 So you have everything that found from collecting those
15 messages. Then I went through our group chat, multiple
16 group chats with other members of the VOC and collected
17 whatever requested documents were relevant. And then
18 unfortunately I had gotten a new phone since the time that
19 is in question in the subpoena, so I don't have access to
20 all of my text messages from that time. I tried my best to
21 figure out how to get a hold of those text messages, but
22 unless I had the phone, I really can't. And it seems that
23 the phone company could only tell me when who I sent texts
24 to. It's not a comprehensive manuscript of my texts from
25 that time. But I was able to see some texts on my computer

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1 from when my computer was open and I was receiving texts on
2 my phone, so I was able to get a hold of some text messages,
3 but not all I imagine. I really don't know.

4 Q So just so I'm clear about this. You reviewed your
5 devices for text messages that were responsive to the
6 subpoena?

7 A Yes.

8 Q And you also mentioned something about Facebook chat
9 messages. Is that right?

10 A Correct, yeah.

11 Q And so you pulled them from your computer off of your
12 Facebook account?

13 A Yes.

14 Q Now when I review what you sent me this morning, it
15 looks like all of those documents are text messages. Did
16 you send me something other text messages?

17 A If you're including Facebook messages as text messages,
18 then -- there are also emails and Facebook posts.

19 Q Okay.

20 A It was 99 pages.

21 Q Yes, that is correct. But I'm just trying to
22 understand the production, so bear with me.

23 How did you get this in a pdf? Did you screen shot
24 things, print them out and copy them, or did you just
25 manipulate the information some other way? And I don't mean

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1 manipulate. I'm not suggesting you changed the data; just
2 how you got it in a format to send it me.

3 A Yeah. On a Mac it's just really easy. You drag and
4 drop images in preview into the same document and export it
5 from your print screen in a pdf file.

6 Q Was there anything that you located that wasn't --
7 excuse me. Was there anything you located that was
8 responsive to the subpoena that you didn't provide me this
9 morning?

10 A Not to my knowledge, no.

11 Q Where do you work?

12 A I work at the Colectivo café on Humboldt Avenue in
13 Riverwest Milwaukee.

14 Q How long have you worked for Colectivo?

15 A Three years yesterday.

16 Q What position do you currently hold?

17 A I'm a café coworker barista.

18 Q How long have you held that position?

19 A Four years aside from a brief I guess period where I
20 was laid off due to Covid.

21 Q Has your primary location of assignment been the
22 Humboldt café during your employment at Colectivo?

23 A Yeah. Yes.

24 Q You are familiar with the drive to organize Colectivo
25 coworkers into a union, correct?

1 A Very familiar.

2 Q And you were active participant in the trying to
3 organize the workers on behalf of the International
4 Brotherhood of Electrical Workers, right?

5 A Yes.

6 Q Were you a member of the Voluntary Organization
7 Committee?

8 A Yes.

9 Q And how would you describe what the objective was of
10 the Voluntary Organization Committee?

11 A I guess if I had to be concise just to empower workers
12 through a union.

13 Q Would you agree with the characterization that at least
14 one of the main objectives of the VOC was to convince
15 employees of Colectivo to elect the IBEW as their bargaining
16 representative?

17 A Yeah, I'd agree to that.

18 Q Did the IBEW provide the Voluntary Organization
19 Committee with assistance and support in the union campaign?

20 A Yeah.

21 Q What was the nature of that assistance and support?

22 A Well, I mean resources. They provided resources and a
23 lot of knowledge in the unionization process.

24 Q Can you think of anything else?

25 A No. I mean we would meet, and they would help us just

1 with organizing resources and to prepare us for the
2 obstruction by the Employer.

3 Q You mentioned that the IBEW would meet with you. You
4 used the term us. By us did you mean the Voluntary
5 Organization Committee?

6 A Yes. And they were present in our meetings on occasion
7 with coworkers who were not in the Voluntary Organization
8 Committee.

9 Q How frequently did the Voluntary Organization Committee
10 meet with representatives of the IBEW during the course of
11 the union campaign?

12 A At least every Tuesday for the past year and a half.
13 We missed some Tuesdays for holidays and things like that,
14 and then for a certain period of time we were hosting
15 Saturday meetings.

16 Q Did the IBEW provide the Voluntary Organization
17 Committee with campaign material during the course of the
18 campaign?

19 A Yes.

20 Q And what was the general nature of that campaign
21 material? Was it items that were posted or distributed to
22 employees?

23 A Some.

24 Q And was the role of the VOC to take the information
25 provided by the IBEW and push it out to coworkers?

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1 A I mean if we believed that it would be helpful to
2 coworkers, we asked for those things to be provided.

3 Q Did the Voluntary Organization Committee get
4 information the unions other than the IBEW during the course
5 of the campaign?

6 A I mean we had contact with other folks in organized
7 labor. I wouldn't characterize it as like any formal kind
8 of advice or anything like that.

9 Q Is it correct that only the IBEW provided the Voluntary
10 Organization Committee with campaign material and resources
11 designed to support unionization at Colectivo?

12 A Yes.

13 Q Did the IBEW provide the Voluntary Organization
14 Committee with information about the balloting process and
15 the completion of ballots or anything at all related to how
16 coworkers are supposed to fill out ballots?

17 A I'm sure that they did. I wasn't really -- I didn't
18 create a lot of the content that we put out as the Voluntary
19 Organization Committee. So I didn't have to ask for those
20 things personally. I think where I got the most instruction
21 as far as how to fill out a ballot was in meetings hosted by
22 the Labor Relations Institute and through emails sent by the
23 Company.

24 Q Do you know if the VOC distributed information to
25 coworkers about the balloting process?

1 A Oh, I did circulate a document. I think it's in the
2 documents I submitted to you. I think it may be in there
3 twice. That document was describing how to get a hold -- I
4 think it was how to get a hold of the NLRB if your ballot
5 was not -- had not arrived yet and then also about Social
6 Saturdays. So I did distribute that to cafes in Milwaukee.
7 I can't really speak to what other coworkers had done.

8 Q Okay.

9 MR. HAASE: Aaron, would you pull up Employer's
10 Exhibit No. 2?

11 Q BY MR. HAASE: Okay. Ms. Laskonis, can you see
12 Employer's Exhibit No. 2?

13 A Uh-huh.

14 Q Is that yes?

15 A Yes.

16 Q Sorry. You have to say yes --

17 A I understand.

18 Q -- so the court reporter can track it. Do you know
19 what this exhibit is?

20 A It's a post on the Colectivo memes page written by me
21 on March 15th.

22 Q What was the Colectivo memes page?

23 A It is a page that was created long before our union
24 campaign began just for the purposes of joking around about
25 our industry.

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1 Q While during the course of the union campaign, did you
2 and other members of the VOC use the Colectivo memes page
3 for purposes of communicating about the union campaign?

4 A Sometimes, yes.

5 Q And who had access to this memes page?

6 A Anybody who was a member. Usually -- I don't even know
7 who created it though I am aware now of who the admin is. I
8 really did not know until this hearing.

9 Q Okay. Who is the administrator of that page to your
10 knowledge?

11 A Zoe, and I know her last name starts with a B and ends
12 in a T.

13 Q Are you referring to Zoe Bockhorst, B-o-c-k-h-o-r-s-t?

14 A Yes.

15 Q And you said members of the page had access to it. Who
16 are the members to your knowledge?

17 A To my knowledge, members of the page span multiple
18 years and may or may not still work at Colectivo. So I
19 really -- I'm not sure.

20 Q Let me direct your timeframe to March 9th, 2021 to March
21 30th, 2021. During that timeframe, who were the members of
22 the Colectivo memes Facebook page? Do you know?

23 A I don't.

24 Q Did the members include individuals who had the
25 opportunity to vote in the union election?

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1 A I would imagine, yes.

2 Q Well, it must have, wouldn't it? Because if it didn't,
3 why would you send -- why would you make a post that's
4 marked Employer's Exhibit No. 2? Correct?

5 A Correct. I mean --

6 Q You sent Employer's Exhibit No. 2. You made that post
7 because you were intending to communicate with individuals
8 who were voting in the union election, right?

9 A Yes.

10 Q And at the top of page 1 there's a date that indicates
11 March 13th. Does that mean that you made this post that's
12 reflected on Employer's Exhibit 2 on March 13th, 2021?

13 A Yes.

14 Q The post at the top references Social Saturdays. Do
15 you see that?

16 A Yeah.

17 Q What were Social Saturdays?

18 A Social Saturdays were meetings that were meant for --
19 to be open to new coworkers, coworkers who hadn't attended
20 our organizing meetings in the past.

21 Q So how did you -- if you were posting this notice on
22 the Facebook memes page, why did you think posting it there
23 would reach that group of people?

24 A I think that poking fun at your workplace and your
25 industry is something that unites us, and so there are

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1 members -- there are people who work in Madison, there are
2 people who work in Chicago, and there are people who work in
3 Milwaukee who are on that page.

4 Q Right. So you were using the Facebook memes page to
5 communicate with people who were going to vote or that you
6 wanted to vote in the election, right? That's why you were
7 using that format?

8 A Yes, yes.

9 Q All right. Do you recall what was discussed at the --
10 were these Social Saturdays virtual meetings or were they in
11 person?

12 A They were virtual for the health and safety of the
13 coworkers.

14 Q And do you recall what was discussed at the meeting
15 that took place on or about March 13th?

16 A I don't. I don't keep -- I didn't take notes during
17 Social Saturday because they were casual.

18 Q Did you attend this one?

19 A I really don't know. I attended most of them.

20 Q At the bottom of Employer's Exhibit No. 2, it looks
21 like there's a message that you sent out in relation to your
22 posting. Is that a fair characterization?

23 A Yes.

24 Q And there you were inviting Colectivo employees to
25 contact you with questions, correct?

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1 A Correct.

2 Q Did Colectivo employees contact you with questions in
3 response to that post, to that message?

4 A Not in response to that message, no.

5 Q Did you get other DM messages from Colectivo employees
6 about the union campaign?

7 A I was not able to find any.

8 Q Well, I didn't ask if you were able to find them. I
9 asked you if you received any. Did you receive some?

10 A Not to my knowledge.

11 MR. HAASE: Aaron, would you go to Employer's Exhibit
12 3?

13 Q BY MR. HAASE: Ms. Laskonis, take a moment and review
14 that, and let me know if you're familiar with it.

15 A Yeah, I am familiar.

16 Q And what is this document?

17 A This document is a flyer that I made to circulate to
18 cafes in the weeks preceding the election.

19 Q Okay. You prepared this posting?

20 A Yes.

21 Q And how did you distribute it to Colectivo employees?

22 A By hand and then this post.

23 Q Okay. But this post, was it on -- if I missed it, I
24 apologize. Did you say you posted it on the Colectivo memes
25 Facebook page?

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1 A I believe I posted it in multiple places, but I can't
2 be sure.

3 Q What places do you believe you posted Employer's
4 Exhibit 3?

5 A If I did most it on the memes page, then I believe that
6 I also posted it to a group that I created called CCR 411
7 that I created to keep coworkers up-to-date with the
8 information about Covid procedure initially.

9 Q Can you remember any other place you posted Employer's
10 Exhibit 3?

11 A I don't think so.

12 Q Toward the bottom of the posting before you get to the
13 message there's a -- it says, "Links to other information",
14 and then it appears to be perhaps a reference to a web site.
15 Do you know what that is?

16 A That was a link tree, a list of links. I had been
17 paying for that subscription. It had a list of links that
18 we had on our Instagram, but I couldn't pay for it to
19 continue the subscription. And so I believe the one for
20 that one is expired, but the one for our Instagram is not.

21 Q I'm trying to follow you. So this was a link to an
22 Instagram account? That was one thing?

23 A It's on our Instagram, but this one had different links
24 relating to the election I believe.

25 Q Okay.

1 A Those should be detailed in an email that I included in
2 my exhibits or whatever.

3 Q Well, at the time that you made this posting, you were
4 still subscribing to those things you were linking to. Is
5 that correct?

6 A Yes.

7 Q And those items related to the union campaign that they
8 were linked to?

9 A Yes.

10 Q And where was the content from those links coming from?

11 A That can be found elsewhere in my documents in an email
12 to Kim.

13 Q And email to who?

14 A Kim Moon of the IBEW.

15 Q So does that mean that Kim Moon was providing content
16 related to those links?

17 A No. Some content was provided by the IBEW at some
18 point. There's a -- I know one of the things was a list of
19 35 things your employer technically can't do, but I was not
20 told to put it in there by anybody in the IBEW.

21 Q The posting in Employer's Exhibit No. 3 references
22 another Social Saturday. Is that correct?

23 A Yes.

24 Q So was there another Social Saturday on or about March
25 20th, 2021?

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- 1 A Yes.
- 2 Q And did you attend that one?
- 3 A Yes.
- 4 Q Did other coworkers attend?
- 5 A Yes.
- 6 Q Approximately how many?
- 7 A I don't know.
- 8 Q Do you have any idea?
- 9 A No.
- 10 Q Was it more than one? You and another person?
- 11 A Yes, it was more than one.
- 12 Q Was it less than 100?
- 13 A It was less than 10.
- 14 Q What was discussed at this Social Saturday?
- 15 A Dick Durbin. Senator Dick Durbin was there. We heard
- 16 from him. We met somebody from a café in Bloomington,
- 17 Illinois who was interested in organizing, and we spoke with
- 18 them.
- 19 Q Was anything discussed about the balloting process to
- 20 your knowledge?
- 21 A Not to -- not according to my recollection.
- 22 Q Was there ever a situation where at one of these Social
- 23 Saturdays that happened after the ballots were out that a
- 24 coworker displayed their ballot and went through it?
- 25 A No.

1 Q Did you attend every Social Saturday?

2 A I don't have a recollection.

3 Q If we were in possession of text messages which refer
4 to a ballot being displayed at a Social Saturday, would you
5 think that's correct or incorrect?

6 A I think that's incorrect.

7 MR. HAASE: Aaron, could you go to Employer's Exhibit
8 5?

9 Q BY MR. HAASE: So, Ms. Laskonis, Employer's Exhibit
10 No. 5 is a 4-page exhibit. So page 1 is displayed right
11 now. Are you familiar with this page?

12 A I honestly don't remember this post. I don't typically
13 use Instagram.

14 Q Why do you refer to Instagram with respect to Page 1 of
15 Exhibit 5? Does this look like an Instagram post?

16 A To me it does.

17 Q Did you or other -- well, did the Voluntary
18 Organization Committee maintain an Instagram account related
19 to the union election?

20 A Yes.

21 Q And did the VOC post content on that Instagram account
22 about the election?

23 A Yes.

24 Q But you don't remember seeing the post that's on page
25 1?

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1 A I did not create that post, and I don't remember seeing
2 it.

3 Q Do you know who created it?

4 A I honestly don't. It could have been a number of
5 people.

6 Q Well, who could it have been? Who had the ability to
7 post on the Instagram account dedicated to the unionization
8 effort?

9 A At that time, I'm not sure.

10 Q Well, you said it could be any number of people, so who
11 were you referring to?

12 A It could have been Kate. I would guess that it was
13 Kate. It could have been Zoe Muellner. It could have been
14 maybe Emi Mendez. I don't know if they had anything or any
15 involvement in this part, you know, if they were interested
16 in that, but I don't know if they ever met with our social
17 media. The VOC people contributed -- there were a lot of
18 people who expressed interest in that sort of thing, but I
19 don't know if they've ever contributed.

20 Q You referenced social media people on the VOC. Who are
21 they? Is that the group you just listed?

22 A Yeah. It would be Zoe Muellner and then Kate Dessoffy,
23 and now it includes Ryan Coffel.

24 Q And could you, for purposes of the record, spell Kate's
25 last name? Do you want to spell it?

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1 A D-e-s-s-o-f-y [sic] I believe.

2 Q And how about Zoe Muellner?

3 A M-u-e-l-l-n-e-r.

4 Q And then you mentioned I think Emi Mendez.

5 A Yeah. E-m-i is the first name. The last name is
6 Mendez, M-e-n-d-e-z, and it may be hyphenated as Mendez-
7 Smith.

8 Q And then you mentioned Ryan Coffel.

9 A C-o-f-f-e-l.

10 Q Do you have knowledge where the members of the VOC who
11 were hosting social media contact on Instagram were getting
12 that content from?

13 A I believe that it was created mostly on a website
14 called CANVA.

15 Q CANVA. Do you know how to spell that?

16 A CANVA, C-a-n-v-a.

17 MR. HAASE: Aaron, do you want to go to page 2 of
18 Exhibit 5?

19 Q BY MR. HAASE: Are you familiar with this document on
20 this page?

21 A This one looks as unfamiliar as the last one to me. I
22 don't use Instagram.

23 Q Can you tell by looking at page 2 of Exhibit 5 if this
24 was something that was posted on the Instagram website that
25 was used to assist with the union campaign?

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1 A It does appear to be posted by the Colectivo Collective
2 Instagram page.

3 MR. HAASE: Aaron, go to the next page of Exhibit 5.

4 Q BY MR. HAASE: Are you familiar with this page of the
5 document?

6 A I did not see this page until I was reviewing the
7 exhibits that were sent to me today by your firm.

8 Q Got it. Does this appear to be something that was on
9 the Instagram account that was designed to assist with the
10 Union's efforts to organize the employees at Colectivo?

11 A Yes.

12 MR. HAASE: And then, Aaron go to page 5 of -- excuse
13 me. Page 4 of Exhibit 5.

14 Q BY MR. HAASE: I'm assuming you didn't see this
15 Instagram post either prior to today?

16 A No. It looks like another page on that original post
17 that I did not see.

18 Q But again, by looking at it, your conclusion is that
19 this was a document that was posted on the Instagram account
20 that was being used to try to facilitate organization at
21 Colectivo, right?

22 A Yeah. And to help explain the ballot process it seems.

23 Q Are you familiar with ever seeing an image posted by
24 the VOC members or any union supporter relating to the
25 ballot process that had an image of a ballot with no

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1 checked?

2 A No. I know that I read in the group chat that the
3 Company had some things where they were telling coworkers to
4 put a checkmark in the box and telling people to vote no.
5 And so that was something that we saw, and that may have
6 been posted in our group chat, but I don't think that we
7 ever sent anything with a checkmark over a no.

8 Q You just referenced something called your group chat.
9 What were you referring to?

10 A Yeah. It's in the evidence that I sent you, the
11 request for documents that I sent you. But those messages
12 are between a group of people, mostly VOC members.

13 Q That's what I'm trying to get at. So who is in that
14 group chat that you just referred to? You said mostly VOC
15 members. Were there other people?

16 A Yeah. Some people were not technically listed on the
17 VOC, and so they were included when it began to organize
18 with us, and the only person that comes to mind in that
19 group that isn't on the list of VOC members would be Patrick
20 from Bayview, Patrick Zastrow, Z-a-s-t-r-o-w. At that point
21 we stopped submitting the list of organizers to the Company
22 because we feared further what we felt was retaliation.

23 Q This group chat that I'm trying to understand who was a
24 member of, how many individuals were part of this group
25 chat?

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1 A I would estimate between 10 and 15.

2 Q And were these all Colectivo employees or were there
3 non-employees in this particular group chat?

4 A There are also members of the IBEW, and there are
5 coworkers who were terminated. So they technically are
6 former coworkers and don't work there.

7 MR. HAASE: Aaron, could you go to Employer's Exhibit
8 No. 6?

9 Q BY MR. HAASE: Ms. Laskonis, Employer's Exhibit 6 is a
10 two-page document.

11 MR. HAASE: Aaron, scroll down to page 2 as well.

12 Q BY MR. HAASE: Are you familiar with this document?

13 A This appears to be the Instagram page.

14 Q And how do you know that?

15 A Because of the contents that I see.

16 Q Okay. And when you say this appears to be the
17 Instagram page, what Instagram page are you referring to?

18 A Colectivo Collective.

19 Q And this included to your knowledge individuals who
20 were eligible to vote in the union election?

21 A I would assume so. Myself, so yes.

22 Q On page 2, let me direct your attention to the first
23 vertical line on the left side of the page about in the
24 middle of the page in that green box where it says, "We will
25 bargain for addressing systematic racism within Colectivo".

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1 Do you see that?

2 A Uh-huh.

3 Q Yes?

4 A I do, yes. Sorry.

5 Q And are you familiar with that being posted on the
6 Instagram page supporting unionization?

7 A I remember there being a discussion about making that
8 post.

9 Q Okay. Tell me about those discussions. Who was
10 involved?

11 A I know that Kate was heavily involved. I think many of
12 us had a response to the Company's email and just were
13 shocked by some of the allegations they made. And so I
14 think we all had reactions to it. I think many of us had
15 reactions to it, but I don't recall anybody else who
16 contributed to the creation of the specifics of that
17 contact.

18 Q But you recall participating in discussions which led
19 to the production of this post, right?

20 A Yes.

21 Q And the intent of this post was to allege that
22 Colectivo engaged in systemic racism and that voting for the
23 union would address that situation, right? That was --

24 MS. HARTLEY: I have an objection at this point.

25 HEARING OFFICER CHOLEWA: Thank you. What is your

1 objection?

2 MS. HARTLEY: My objection is two-fold. First, this
3 is leading. And second, my understanding of the Employer's
4 objections to the election were with regard to solicitation
5 of ballots, and this does not seem to be at all related to
6 solicitation of ballots.

7 HEARING OFFICER CHOLEWA: Mr. Haase, what's your
8 position?

9 MR. HAASE: Yeah. With respect to the leading the
10 witness, I think it's been pretty clear that Ms. Laskonis is
11 an adverse witness and has gratuitously offered information
12 not responsive to the questions. That are designed to
13 reflect negatively on the Employer. She seems to be smiling
14 and smirking throughout the questioning as if this is such a
15 -- as if this was a game. She's clearly a participant in
16 the Voluntary Organization Committee whose stated intent was
17 to organize at Colectivo. So she's clearly an adverse
18 witness to whom I'm entitled to lead.

19 As to relevancy, the hearing rules specifically allow
20 the Regional Director to consider other evidence of
21 misconduct during the campaign, and this is a clear example
22 of that of trying to enflame racial sensitivities, and I
23 think the Regional Director should exam this and consider it
24 as part of our objections. And if you'd like, I can cite
25 you to the case law that gives the Regional Director that

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1 authority.

2 HEARING OFFICER CHOLEWA: I am going to overrule the
3 challenge with a few caveats as to just remind you to keep
4 to the objections. So while we're going down this road a
5 little bit, you know, I do think that you need to have
6 information related to your objections specifically. So to
7 that extent, let's proceed with those cautions.

8 MR. HAASE: Thank you. I would like the answer to my
9 most recent question provided now. I don't know if the
10 court reporter has the ability to do that. If not, I can
11 just repeat the question to the best I recall it.

12 COURT REPORTER: You're going to have to please repeat
13 your question.

14 MR. HAASE: Fair enough.

15 Q BY MR. HAASE: Ms. Laskonis, referring to this
16 Instagram post that we've been talking about, you would
17 agree from your participation in the creation of this post
18 that it was intended to allege that Colectivo engaged in
19 systemic racism and that a vote for the union would be a way
20 to address that systemic racism, right? That was the intent
21 of this message.

22 A I am not familiar with the content of this message. I
23 am familiar with the conversations that preceded it which
24 were in response to an email sent by the Company to all
25 coworkers.

1 Q Ms. Laskonis, how can you not be familiar with the
2 content of the message? You're looking at it, correct. Do
3 you see it?

4 A I do. I see the first page of a post. I do not know
5 what the entire post says.

6 Q If the intent was not consistent with my question, then
7 what is your understanding of the intent of this message?

8 A To address things -- comments that were made in an
9 email sent to all coworkers of the Company.

10 Q Is that email in the production you sent me today?

11 A I believe so.

12 Q What page is it on?

13 A I can look if you'll give me a moment.

14 *[Long Pause]*

15 There are 99 pages here. I'm not sure where it is.

16 Q Fair enough. I don't want to waste everybody's time.
17 I'll move on.

18 MR. HAASE: Aaron, can you pull up Union Exhibit No.
19 3?

20 Q BY MR. HAASE: Ms. Laskonis, this is a 15-page exhibit
21 provided by the Union that has been admitted in this matter.
22 Have you seen this document before just by looking at page
23 1?

24 A Yeah. Yes.

25 Q What is it?

1 A It's a post on the CCR 411 page that I mentioned
2 previously.

3 Q Okay. So what was the CCR 441 page?

4 A It was a group created for coworkers. I created the
5 group to relay information that was considered urgent at the
6 time of Covid.

7 Q It listed you as the administrator of this page,
8 correct?

9 A Yes.

10 Q And did anyone else other than yourself have the
11 ability to post content?

12 A Yeah. I mean anybody who is a member can post to the
13 page.

14 Q How many members were there? Let me rephrase the
15 question. On page 1 it starts with a post on or about March
16 16th, 2021. At that time, approximately how many members
17 were there to the CCR 411 page?

18 A I can only make a guess that it would be somewhere
19 between 80 and 115.

20 Q Okay. And of those 80 to 115, most of those members,
21 if not all of them, were employees of Colectivo who were
22 going to vote in the union election, correct?

23 A No. I would say a great of them had left or had been -
24 - I mean I don't -- or were terminated. So there were
25 people who were former coworkers on there, and they weren't

1 eligible to vote at that time.

2 Q How many of the 80 to 115 would you put in that
3 category?

4 A I have no idea.

5 Q And you would agree that you were using this account at
6 least from March 16th through March 30th of 2021 to encourage
7 Colectivo coworkers to vote in the union election, right?

8 A Yeah. Yes.

9 Q You were using this account during that same timeframe
10 to offer assistance with ballots, right?

11 A I don't know if I'd use assistance considering. I was
12 just relaying the information that was accessible to me.

13 Q Okay. Were you relaying information about the
14 balloting process?

15 A I particularly was concerned with as many coworkers as
16 possible receiving their ballot and having the ability to
17 vote.

18 MR. HAASE: Aaron, would you go to page 11?

19 Q BY MR. HAASE: Ms. Laskonis, are you looking at page
20 11?

21 A Yes.

22 Q And here is -- one of the visuals on this page is a
23 post that shows a ballot with the x box marked off, correct?

24 A That is correct.

25 Q And this was something that was posted on or about

1 March 18th, 2021, correct?

2 A Yes.

3 Q You posted this, right?

4 A I showed it. I showed most things from the page.

5 Q You saw this image that's displayed on page 11 on or
6 about the time you posted it on March 18th, right?

7 A Evidently, but I have no recollection of it, and I
8 tended to repost things just with the trust that they're
9 thoughtfully created by my coworkers who are in charge of
10 the social media. So for example, the plus five pages of
11 that post, I have no clue what they look like.

12 Q But to the extent you had earlier testified that you
13 had never seen this image before, looking at the email we
14 sent you this morning, that was just incorrect? You had
15 forgotten?

16 A I guess, yes. I had forgotten. I'm surprised to see
17 this now.

18 Q Okay.

19 MR. HAASE: Aaron, would you pull up Union's Exhibit
20 No. 5?

21 Q BY MR. HAASE: Ms. Laskonis, are you looking at page 1
22 of Union's Exhibit 5?

23 A Yes.

24 Q Can you tell from this page what this exhibit is?

25 A A post made on the Colectivo memes page.

1 Q And you made this post?

2 A Yes.

3 Q From looking at page 1, is this -- this is a different
4 format of communicating with Colectivo employees than the
5 prior exhibit. That's what I was trying to get at. Is this
6 like a different means of communication, a different
7 Facebook page?

8 A This group is different than the CCR 411 group that we
9 were talking about.

10 Q How is this -- all right. Sorry to interrupt you. How
11 is this group different?

12 A I believe our group -- I believe the CCR 411 page is a
13 hidden group whereas this group is visible to non-members.

14 Q Okay. So we have a new exhibit from what you produced
15 this morning. That would be Employer's Exhibit No. 12.

16 MR. HAASE: Aaron, I think you distributed that
17 earlier today. If so, can you pull it up?

18 MR. MCCANN: Yes.

19 Q BY MR. HAASE: Ms. Laskonis, do you have page 1 of
20 Employer's Exhibit 12 in front of you, and just for purposes
21 of the record, Exhibit 12 are 8 pages from the production
22 that you sent us this morning. Does page 1 look familiar to
23 you?

24 **(Employer's Exhibit No. 12 marked for identification.)**

25 A Yes.

1 Q Okay. So what is page 1?

2 A Page 1 is a conversation between VOC members in our
3 group chat describing a coworker who wanted to hand deliver
4 their ballot and reached out to a member of our VOC, which
5 is Brianna, to get out how to do that, and if it was
6 something that they were able to do.

7 Q I'm sorry to interrupt. At the top there's a name
8 Brianna, correct?

9 A Yes.

10 Q What's Brianna's last name?

11 A Crea, C-r-e-a.

12 Q And if I'm reading this right, Brianna is sending this
13 group a message seeking help with getting her ballot
14 submitted. Is that a fair characterization?

15 A Yeah. Of a coworker. I'm sorry. Can you repeat the
16 question?

17 Q I'm trying to understand what was going on in this
18 group text. As I read it, it appears to me that Brianna is
19 saying her yes vote can't get into the building to drop off
20 his ballot. Did I read that correctly?

21 A Yes.

22 Q Who was Brianna's yes vote?

23 A I don't know. There were two people who reached out to
24 us in that time. One of them reached out to Brianna and I.
25 This is not that person.

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1 Q Okay. But Brianna is reaching out to members of this
2 group chat to tell them that she knows of someone who is
3 "her yes vote who can't get his ballot delivered". That's
4 what's going on here, right?

5 A I mean yes. I believe that the person voted yes. I
6 don't know that, but whoever -- I don't know who the person
7 is. So --

8 Q Okay. And Brianna is reaching out to VOC members to
9 get guidance to try to help whoever her yes vote is to get
10 his ballot submitted. Is that correct?

11 A Yes, yes.

12 Q All right. Who is this Zoe referenced on this group
13 chat?

14 A Zoe Muellner.

15 Q Was she a member of the VOC?

16 A Yes.

17 Q Was Brianna a member of the VOC?

18 A Yes.

19 MR. HAASE: Aaron, go to page 2, please.

20 Q BY MR. HAASE: Would you agree that page 2 is a
21 continuation of the same group discussion that we just
22 talked about on page 1?

23 A Yes.

24 Q There's a name Joe about the middle of page 2. Who is
25 Joe?

1 A Joe DiMichele from the IBEW.

2 Q Okay. So is Joe -- at the time this group chat was
3 happening, which appears to be about March 30th, 2021, was
4 Joe DiMichele at that time an employee of Colectivo?

5 A No.

6 Q Was Joe DiMichele a union organizer for the
7 International Brotherhood of Electrical Workers at that
8 time?

9 A Yes.

10 Q And was Joe assisting the VOC in its efforts to get the
11 IBEW elected as the employees' union representative at the
12 time of this group text?

13 A Yes.

14 MR. HAASE: Aaron, would you go to page 3, please?

15 Q BY MR. HAASE: Ms. Laskonis, Employer's Exhibit No. 12,
16 page 3. Are you familiar with this document?

17 A Yes.

18 Q What is it?

19 A This is something I sent to Kim at the time that our
20 link tree was active, just talking about the flyer that we
21 had spoke about previously and trying -- Oh, it appears we
22 sent it to Kim, Lynn, and Joe just to receive feedback.

23 Q Okay. And when did you send this letter?

24 A March 16th.

25 Q How did you send it?

- 1 A By email.
- 2 Q And what is Kim's last name?
- 3 A Moon.
- 4 Q At the time you sent the letter, what was Kim Moon's
- 5 affiliation with the union campaign?
- 6 A Kim is the organizer for the state of Wisconsin that we
- 7 had been working with from the IBEW.
- 8 Q Who is Lynn?
- 9 A Lynn is an organizer at the IBEW, 6th District.
- 10 Q And is Joe Joe DiMichele the person your referenced
- 11 from the previous page?
- 12 A Yes.
- 13 MR. HAASE: Aaron, go to page 4, please.
- 14 Q BY MR. HAASE: Ms. Laskonis, are you familiar with
- 15 this page?
- 16 A Yes.
- 17 Q What is this?
- 18 A It is Kim's response to my email.
- 19 Q So -- I'm sorry to interrupt. So is page 4 Kim Moon's
- 20 response to your email as reflected on page 3?
- 21 A Yes.
- 22 Q Okay. Then what information did Kim provide you in her
- 23 response?
- 24 A I mean just that she would look through it.
- 25 Q And here you were seeking support from the IBEW about

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1 material, campaign material, that you wanted to communicate
2 to potential voters in the union election, right?

3 A Yeah. Yes.

4 MR. HAASE: Aaron, could you go to page 5?

5 Q BY MR. HAASE: What is reflected on page 5?

6 A That is an email that was sent by Lynn on behalf of
7 Colectivo coworkers, to all Colectivens that we had on our
8 list at the time. I'm not sure who that is.

9 Q Okay. And when you say all Colectivens, that would
10 mean individuals who you thought were employees were
11 Colectivo at the time this letter was sent, right?

12 A Correct.

13 Q And these were people who you anticipated would have
14 the right to vote in the union election, correct?

15 A I believe so.

16 Q And just -- I think the rest of this exhibit is part of
17 that same letter, but --

18 MR. HAASE: Aaron, could you scroll through pages 6, 7
19 and 8 and just pause on each one? Okay, go to the next
20 page, page 7. And go to the next page.

21 Q BY MR. HAASE: So am I reading this correctly that
22 pages 5 through 8 are part of the same letter that you just
23 described?

24 A Yes.

25 Q And you indicated that it was going to get sent to all

1 Colectivens. How was it going to get sent? How was that
2 getting communicated?

3 A I believe it was sent -- it appears to have been sent
4 by Joe to coworkers. This was sent to me by Lynn to review.

5 Q And do you know what means Joe used to get it to
6 Colectivo employees?

7 A I assume email, and that's all I know.

8 MR. HAASE: I would move to admit Employer's Exhibit
9 12.

10 HEARING OFFICER CHOLEWA: Petitioner, do you have any
11 objections?

12 MS. HARTLEY: Just give me a one second. I want to
13 make sure I've looked at all the pages here.

14 Yeah, no objection.

15 HEARING OFFICER CHOLEWA: Okay. All right. I'm going
16 to admit Employer's Exhibit No. 12.

17 **(Employer's Exhibit No. 12 received into evidence.)**

18 Q BY MR. HAASE: Ms. Laskonis, just bear with me a
19 moment while I look at my notes.

20 Thank you for your time. I don't any other questions.

21 A Thank you.

22 HEARING OFFICER CHOLEWA: All right. Ms. Hartley,
23 would you care to cross?

24 MS. HARTLEY: Yes, please.

25 **CROSS EXAMINATION**

1 Q BY MS. HARTLEY: Hillary, you testified -- you were
2 asked some questions about the IBEW providing VOC members
3 with information, and you said something to the effect of
4 that they provided you with resources and knowledge. Do you
5 remember that testimony?

6 A Yes.

7 Q What did you mean by resources?

8 A Particularly, there was about 12 things that your
9 employer will attempt to do to stifle the union and
10 responses to that.

11 Q Okay. Any other resources that you can recall?

12 A They set up our Zoom calls, facilitated those. We
13 otherwise would only be able to hold them for 45 minutes.
14 We were able to just -- really most of it was the organizers
15 just kind of having the information from their experience
16 and sharing their knowledge of the process with us verbally.

17 Q Okay. And with respect to -- you know, we looked at a
18 number of posts that you put up, and I know you indicated
19 that you, you know, did various things on various different
20 pages. But just generally, and I'm not interested in any
21 particular one, but just generally, if you had created a
22 post and put it on a Facebook page, is that something you
23 did on your own, or is that something you received -- is
24 that one of the things you received from the IBEW?

25 A That would be something that I received from the

1 content creators who are on the VOC, and I really don't know
2 if they received any resources from the IBEW on those.

3 Q Okay, great. Thank you. So let's talk about some of
4 the meetings that you mentioned. You said there were
5 meetings between IBEW representatives and VOC members on
6 Tuesdays generally. Is that correct?

7 A Yes.

8 Q And did you invite coworkers who were not members of
9 the VOC into those meetings with IBEW reps?

10 A Not typically, though it did happen on occasion. I
11 can't recall if it happened during that time other than
12 Patrick Zastrow, who I had mentioned before.

13 Q Okay. And then with regard to the Social Saturdays,
14 let me ask you some questions about that.

15 You indicated those were all virtual meetings, correct?

16 A Yes.

17 Q Do you know over what period of time those were held?

18 A I don't have a clear recollection of how long we did
19 the Social Saturday calls. We stopped for awhile, and I
20 don't know when that was or if it was even maybe after the
21 election. I'm not sure.

22 Q Okay. Were they being held prior to the time that
23 ballots were sent out?

24 A Yes.

25 Q And did some take place during that period when ballots

1 would have been out for employees to receive and return?

2 A Yes.

3 Q And you're not sure whether that continued after
4 ballots were returned or not?

5 A I'm not sure.

6 Q Okay. And I believe you indicated that you don't
7 recall ever seeing a ballot displayed on the screen during
8 those Social Saturdays. Is that accurate?

9 A That's accurate. The only ballot that I saw was my
10 own.

11 Q You've never seen anyone else's ballot but your own?

12 A No.

13 Q Am I correct?

14 A You're correct. I have not seen anybody's ballot but
15 my own.

16 Q Okay. Thanks. And would that mean that you've never
17 handled anyone else's ballot or physically touched anyone
18 else's ballot as well?

19 A Correct.

20 Q You indicated that with respect to the balloting
21 process, you said something about our biggest source of
22 information being from -- and you mentioned a group. Was it
23 Labor Relations Institute? Did I get that right?

24 A Yes.

25 Q And from the Company, correct?

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1 A Correct.

2 Q How did you get that information, and what did they
3 provide to you?

4 A By email. I believe that they also had a depiction of
5 the ballot, of a ballot. I don't believe I included that in
6 my documents because it was not between me and Union or me
7 and a coworker. It was from info at Colectivo which would
8 be management. But there was a video that they showed at a
9 meeting that I attended at the Prospect location. It was
10 not mandatory, but you were paid if you went, and that's why
11 I went.

12 At that meeting, there was a video that was made by LRI
13 about how to fill out and return your ballot. Yeah.

14 Q Okay. And what do you remember about that video other
15 than what you've already described to us?

16 A I remember that was the first time I had seen any
17 content created by LRI of that nature. It was -- I really
18 don't -- it was like, according to my recollection, very
19 similar to what was in the emails that were sent by the
20 Company. I was also reached out to -- sorry, I'm changing
21 the subject. But I also got an email from LaShonda about --

22 MR. HAASE: Objection.

23 HEARING OFFICER CHOLEWA: Yeah. What is the basis of
24 your objection?

25 MR. HAASE: Two. One, it's not relevant what the

1 Employer's campaign activities were on these objections.
2 Secondly, by the witness' own admission, she's providing
3 non-responsive answers.

4 HEARING OFFICER CHOLEWA: Petitioner, what's your
5 position?

6 MS. HARTLEY: Well, with respect to the non-responsive
7 answers, she's entitled to answer the questions the way that
8 she wants to answer the questions. And with regard to the
9 content, she was asked questions regarding her source of
10 information about filling out ballots, so this is one of --
11 it was included in her response, so I think that it's
12 appropriate for my questions to her based on her testimony
13 on direct examination.

14 HEARING OFFICER CHOLEWA: I'm going to overrule this
15 and allow the questioning to continue. Thank you.

16 A BY THE WITNESS: That's all I meant is that my --
17 (inaudible-File 11-09:00) refers to your original question
18 which is where did I get information about the ballots. And
19 I didn't mention before, but I believe that it's included in
20 my documents that I provided that LaShonda just let me know
21 that my ballot was returned to the office or did not reach
22 me and that my address had to be updated. So I had updated
23 my address at the NLRB before that, but the email from
24 LaShonda came the next day.

25 Q Okay. So I guess -- let me -- I guess since you

1 brought that up, let me ask you some questions about that.
2 How was it that you know that Ms. Hill was aware that your
3 ballot had been returned? Do you know?

4 A I think in the email it states that it was returned to
5 the NLRB. I'd have to look at it.

6 Q If you remember a particular page that are aware that
7 that appears on --

8 A Give me a moment to find it if I have included it. I'm
9 not able to find it quickly. I'll tell you that.

10 Q Well, let me ask you a different question then. Did
11 Ms. Hill give you any information about to correct your
12 address?

13 A My response was just to thank her for checking. If it
14 hadn't already corrected it, I probably would have told her
15 my new address. And then I did update my address with her
16 just in regard to insurance and with the Company so that
17 each had my correct address.

18 Q Okay. But did she indicate that you needed to contact
19 the NLRB to correct your address? Was there any discussion
20 with her about that?

21 A No. I guess I assumed that I would have told her my
22 address, not the NLRB.

23 Q Okay. All right. Let's take a look at Union's Exhibit
24 -- and I'm going to put it up on the screen for you here.
25 Can you see my screen, Hillary?

1 A Yes.

2 Q Okay. So this is Union's Exhibit 1, and there are four
3 pages, but let me ask you, have you seen this first page
4 before?

5 A I have seen it.

6 Q Okay. Is that content that you created?

7 A No.

8 Q Okay. All right. Let me just scroll down here and
9 find --

10 A I posted it, but I didn't create it.

11 Q Okay. Understood. How about Union's Exhibit 2? This
12 should be Union's Exhibit 2. Is this something that you're
13 familiar with? Here's the first page. I know it's kind of
14 big. I'm trying to -- here, let me -- oh, here we go. I
15 can reduce the size a little bit so you can see it better.
16 Does that help?

17 A Yeah.

18 Q Okay. Are you familiar with this document?

19 A I am a little bit, but again, I just don't use
20 Instagram very often, so I -- I'm familiar with the
21 conversations leading up to it I guess, but not as familiar
22 with the images themselves.

23 Q So the images in Union's Exhibit 2 that I just scrolled
24 through are not content that you created?

25 A No, they are not.

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1 Q Okay. And then we --

2 A Oh, that one is.

3 Q Okay.

4 A Sorry.

5 Q All right. No problem. This is page 6 of Union's
6 Exhibit 2. And we looked at this earlier maybe in a
7 different document or maybe the same, but you indicated this
8 is something that you created, correct?

9 A Correct.

10 Q And I just want to make sure I understand how you
11 distributed this to coworkers. Did you say this would have
12 been handed out as well as posted?

13 A Yeah. I made copies, and I gave them to some coworkers
14 at different locations.

15 Q Okay. Other than the content that we see on this
16 particular flyer with regard to ballots, which is
17 information about getting a replacement ballot, do you see
18 up at the top there? Other than that content, do you recall
19 ever posting any other content or distributing content to
20 your coworkers about ballots?

21 A Just the social media posts that were discussed earlier
22 as part of the Employer's exhibits.

23 Q Say that again.

24 A Just -- there was a post that the -- that Mr. Haase
25 showed earlier that was a post that I wrote, but as far as

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1 like flyers and content that would go on our Instagram, this
2 would be the only thing that I created. Everything else
3 would be -- or just the other things that were included in
4 my testimony earlier were just text posts.

5 Q Okay. And just give me a second here to find the next
6 document that I'm looking for. And I guess I'll find it in
7 this one. Sorry about that. I'm on the same issue that I
8 was before.

9 While I try to work that out, let me ask you a question
10 about the Employer's Exhibit 2. One second here. Let me
11 make sure I've got the right number. Sorry. There was
12 something that we looked at that referred to a bargaining
13 issue that you provided some testimony about. It's probably
14 in a different packet of documents here. I apologize. I've
15 got too many -- yeah, there it is.

16 It was Employer's Exhibit 6. And this was the post
17 that you recalled - that I believe you had indicated that
18 you hadn't created but that some people bargained for
19 addressing systemic racism within Colectivo. Do you recall
20 that?

21 A Yes, I recall talking about it earlier.

22 Q Okay. And is it accurate that you didn't personally
23 create that post?

24 A That's correct.

25 Q You referred to a email that was sent out by the

1 Company that I believe you indicated had prompted the
2 discussion that led to that post, correct?

3 A Yes.

4 Q What was the subject in the email that prompted that
5 discussion?

6 A The Company in that email to coworkers claimed that the
7 IBEW has a diversity issue, and then referred to the IBEW
8 leadership, like the very top level, and I personally was
9 not very involved in conversations regarding that because I
10 grew up in the IBEW, and I didn't want to have any bias.

11 Q Meaning what? You didn't want to be involved in the
12 discussions with your coworkers as a result of that?

13 A Oh, I listened to my coworkers and how they felt about
14 it, but I didn't participate very much in those
15 conversations other than, you know, kind of interrogating
16 their thoughts and feelings about it, about how we could do
17 better in the future or just as a coworker union of what we
18 might be able to accomplish, but I -- ethically, I wasn't
19 sure how to navigate it, so I spent my time listening.

20 Q Okay. Understood. And so that was the -- that
21 information in the Company's email regarding the IBEW's
22 diversity or maybe lack thereof was what prompted the post
23 that we discussed earlier. Is that accurate?

24 A Yes.

25 Q Okay.

1 A Yes.

2 Q Okay.

3 A It was something we talked about before, and we
4 submitted a petition. Before we started the campaign, we
5 submitted a petition regarding the unity campaign at the
6 Company, but other than that, I don't remember any other
7 time where we would have posted something about that issue.

8 Q Okay. And you mentioned something that I'm not
9 familiar with. A petition about a unity campaign? What
10 were you referring to?

11 A In the beginning of the election a lot of coworkers --
12 well, this was before the campaign. So I said election, and
13 I didn't mean that. This is before we announced to the
14 Company --

15 MR. HAASE: Objection.

16 A BY THE WITNESS: -- that we wanted --

17 HEARING OFFICER CHOLEWA: Hold on, hold on. There's
18 been an objection. Hold on for a second, please. Mr.
19 Haase, please. Your objection?

20 MR. HAASE: Relevance. Discussing things that
21 happened even prior to the election campaign does not have
22 relevance to the subject matter of this hearing.

23 HEARING OFFICER CHOLEWA: Ms. Hartley, any response?

24 MS. HARTLEY: There was questioning -- the Employer
25 opened this door asking these questions about systemic

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1 racism. I'm just trying to figure out where the post came
2 from, and Hillary indicated that prior issue in addition to
3 the email as a basis for discussions about the post. I
4 think it's completely appropriate to ask for her to provide
5 that information.

6 HEARING OFFICER CHOLEWA: I'm going to overrule it
7 since you did open this line of questioning, but with the
8 same caveat that I did before was to keep it brief.

9 MS. HARTLEY: Understood.

10 Q BY MS. HARTLEY: So, Hillary, what was the unity
11 campaign and petition related thereto?

12 A It was related to wanting the Company to do better in
13 regard to hiring practices and other issues that had
14 implications as far as systemic racism. And just how the
15 Company initially responded after two weeks to the George
16 Floyd -- the murder of George Floyd when other places were -
17 - other companies very similar to ours were able to do
18 something meaningful in a matter of hours, and ours took two
19 weeks. People were upset that it was not without marketing
20 that they would take a stand, and so we delivered that
21 decision to our former HR Director, Carolyn -- gosh, I
22 forgot her last name. I think it's similar to Zoe's last
23 name, so I just don't want to get it wrong, but our former
24 HR Director was the recipient of the ballot that we
25 delivered by hand.

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1 Q Okay.

2 A Not ballot, but petition.

3 Q I understand. Okay. Thank you. I want to ask you
4 some questions about Company Exhibit 12, and let's see, I'm
5 going to -- I'm not sure. Do you have that one in front of
6 you, Hillary, or let me see if I can --

7 A Yeah. Is this the Brianna --

8 Q Yes. I've got two different computers here that -- the
9 one that I need to be able to share my screen, I don't have
10 that on the email. Give me one second and see if I can
11 figure that out so I can put it up on the screen for you.

12 HEARING OFFICER CHOLEWA: While you're looking for
13 that, I'd like to pause really quickly. Does anyone know
14 who C. Forte is? She has entered the waiting room. Is that
15 a witness?

16 MS. HARTLEY: That's probably Caroline Fortin, one of
17 the witnesses that we've subpoenaed.

18 HEARING OFFICER CHOLEWA: Okay. I'm going to leave
19 her in the waiting room. Thank you.

20 MS. HARTLEY: Yeah, okay. Could we take just like a
21 short break while I try to get this document up on the
22 screen to the right email?

23 HEARING OFFICER CHOLEWA: Can we go off the record,
24 please?

25 *(Off the record)*

1 HEARING OFFICER CHOLEWA: Can we go back on the
2 record, please? Thank you. Please proceed.

3 MS. HARTLEY: Okay. Thank you. Sorry about that.

4 Q BY MS. HARTLEY: Brianna -- not Brianna. I'm reading
5 the names here. Hillary, I've got Employer's Exhibit 12 up
6 on the screen here. And I just want to make sure I
7 understand your involvement in this situation because you
8 indicated that you were involved in some respect in trying
9 to assist someone to hand deliver a ballot. Is that
10 correct? You're on mute.

11 A Thank you. That's correct. I indicated to Brianna --
12 or something that Brianna said indicated to me that we were
13 talking to the same person. In one of those two cases, this
14 person that's referred to in this message, I had no contact
15 with.

16 Q Okay. So you have these messages that are pages 1 and
17 2 of Employer's Exhibit 12 because you were part of that
18 group chat. Is that correct?

19 A Yes. I was not sure what fell under -- it was related
20 to a ballot, so I included it, yes.

21 Q Okay. But it appears that we can see the names of
22 those who were actually participating at least in this
23 conversation, and they don't include your name.

24 A Correct.

25 Q All right. And do you recall also having some contact

1 with a different coworker regarding trying to hand deliver a
2 ballot?

3 A Yes.

4 Q Okay. And I'm going to show you a different document.

5 MS. HARTLEY: I have -- oh, I'm sorry. I need to email
6 this because I didn't do that yet. This was in the
7 documents that Hillary provided. Let me forward that. I'm
8 getting ahead of myself. And I am going to send this to --
9 Okay.

10 This is going to be Union's Exhibit 6 that I'm trying
11 to -- I'm sorry 7 that I'm going to be sending. Okay. I
12 just sent in that to the email addresses for Mr. Haase, Mr.
13 McCann, the court reporter, and the Hearing Officer as well.
14 And if you can all indicate to me when you have received it
15 so that I will then share the screen so our witness can see
16 it as well.

17 MR. HAASE: This is Haase. I have received it.

18 MR. MCCANN: McCann has received it as well.

19 HEARING OFFICER CHOLEWA: I've received it. Thank
20 you.

21 MS. HARTLEY: Okay, great. Thanks so much.

22 Q BY MS. HARTLEY: Okay, Hillary, can you see Union's
23 Exhibit 7 up on the screen now?

24 **(Union's Exhibit No. 7 marked for identification.)**

25 A Yes.

1 Q Okay. Does this appear to be some document, at least
2 the first page of what you can see so far, a document that
3 you provided in response to the Company's subpoena to you
4 today?

5 A Yes.

6 Q Okay. And do you recall a situation where you and
7 Brianna were, you mentioned, sort of talking to the same
8 person about hand delivering a ballot?

9 A Yes.

10 Q All right. And do these appear to be conversations in
11 that group chat that you referred us to earlier related to
12 that situation?

13 A Yes.

14 Q Okay. And so I'm scrolling down to the second page,
15 and it looks like there were a number of individuals who
16 were involved in this conversation.

17 A Yes.

18 Q Do you know which of these messages are yours?

19 A In the previous page, the messages that are in pink and
20 blue.

21 Q Okay. All right. So on the right-hand side are we 100
22 percent on that? That you and Brianna are talking to the
23 same person, BTW? Yes?

24 A Yes, those are from me.

25 Q Okay. Understood. And what was the situation here?

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1 Did you have a coworker reach out regarding a ballot?

2 A Yes. That picture was sent to me by them.

3 Q What picture?

4 A It was the details I think that were included like as a
5 -- by the NLRB in relation to the election and when we could
6 return ballots by, and it says that they had to reach the
7 office by 4:30, and then the rest of the conversation here
8 is about confirming whether or not we could -- if that
9 person I was talking to could hand deliver it.

10 Q Okay. Did you assist the person in any way with
11 completing their ballot?

12 A No.

13 Q Did they ever show you their ballot?

14 A No.

15 Q Send you a picture of their ballot?

16 A No.

17 Q Okay. Did you have any role in getting their ballot to
18 the NLRB?

19 A I contacted Joe through this group chat to understand
20 if it was something that would be permissible. According to
21 the rules of the election --

22 Q Whether what would be permissible?

23 A For this coworker to deliver their ballot on the day of
24 the election. So I helped them to know whether or not that
25 was okay, and where they would go to do that, but I was only

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1 aware that they had plans to do that. I, other than that
2 didn't help them get there. I was just communicating with
3 them through messages that I provided.

4 Q So you never handled their ballot?

5 A I did not handle their ballot.

6 Q And on page 2 of Union's Exhibit 7, and that should be
7 up on the screen for you right now, there are some names
8 here. Kim and Joe, do you see those?

9 A Yes.

10 Q Okay. And you mentioned Joe. Is that Joe DiMichele
11 from the IBEW?

12 A Yes, that's Joe DiMichele.

13 Q Okay. And it looks like he was going to call the
14 subregion office for an answer?

15 A Yes.

16 Q And what was your understanding of what he was calling
17 the subregion office about?

18 A My understanding was that he was calling to make sure
19 that delivering the ballot was -- delivering the ballot on
20 the day of to the subregion office was permissible.

21 Q Okay. And then do you recall that he eventually did
22 respond in this group chat about that issue?

23 A Yes. It took some time the answer to come back, but
24 then he did get a response.

25 Q Okay. I'm directing you to Union's Exhibit 7, page 4

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1 of 6. Do you see Joe's response there kind of in the middle
2 of that page?

3 A Yeah.

4 Q Okay. And he indicated that he was told it was
5 permissible?

6 A Yes, but that only the voter could handle the ballot,
7 which I already knew, but it was a good reminder.

8 Q Okay. And did you then communicate that information
9 back about hand delivering to the person that you were --
10 that you had gotten the question about?

11 A Yes.

12 Q Okay. But I think your testimony was you have no idea
13 whether or not they actually delivered their ballot.

14 A They told me that they did.

15 Q Okay.

16 A I don't know, but in regard to the other person that
17 Brianna talked about, I have no idea.

18 Q Because you weren't there when they did that.

19 A Correct.

20 Q I'm going to take this down, and then I have one other
21 document that I want to put up there for you. Let's find
22 the specific number. Give me one second.

23 HEARING OFFICER CHOLEWA: Ms. Hartley, is it your
24 intention to offer Union's Exhibit 7 into evidence?

25 MS. HARTLEY: Oh, yes. Thank you. I apologize. Yes,

1 I would offer that.

2 HEARING OFFICER CHOLEWA: Okay. Employer, do you have
3 any objections to that?

4 MR. HAASE: No. No objection.

5 HEARING OFFICER CHOLEWA: Okay. It is admitted.
6 Thank you.

7 **(Union's Exhibit No. 7 received into evidence.)**

8 Q BY MS. HARTLEY: Okay. I'm going to put up Union --
9 I'm sorry, Employer's Exhibit 2.

10 Hillary, I have Employer's Exhibit 2, page 1 on the
11 screen. Can you see that?

12 A Yes.

13 Q And I believe you testified earlier this was a post
14 that you put up on the Colectivo memes page.

15 A That would be correct.

16 Q Do you see that up at the top, correct?

17 A Yes.

18 Q And then with regard to your comment below, you
19 indicate "Feel free to DM me with any questions/concerns
20 about attending". Did I read that correctly?

21 A Yes.

22 Q And you were asking for questions or concerns about
23 attending what?

24 A The Zoom call. Some people did have concerns about who
25 would be on those calls, you know, as it pertains to

1 management.

2 Q Okay. So that comment that we see, the second half of
3 this document, concerns questions or concerns about
4 attending as a reference to that Social Saturday post up
5 above. Is that accurate?

6 A Yes, that's accurate.

7 Q Okay. And because the Social Saturday Zoom calls were
8 all virtual, there was never any ballot mailing that was
9 associated with them. Is that correct?

10 A That's correct. They were typically at night as well
11 so nothing like that.

12 MS. HARTLEY: I think that's all the questions that I
13 have

14 HEARING OFFICER CHOLEWA: Okay. Mr. Haase, would you
15 care to redirect?

16 MR. HAASE: I would. Just a couple of questions
17 hopefully.

18 Aaron, could you pull up Employer's 12? Thank you.

19 **REDIRECT EXAMINATION**

20 Q BY MR. HAASE: Ms. Laskonis, we've talked about this
21 exhibit before, this page 1 of Employer's Exhibit No. 12.
22 Do you see it?

23 A Uh-huh.

24 Q And could you remind me of Zoe's last name, the Zoe
25 that's reflected in this group text?

1 A I think it's Meuleners, M-u-e-l-l-n-e-r [sic].

2 Q And isn't it correct that at this time she was employed
3 by the IBEW?

4 A Yeah. Around this time she had been employed by the
5 IBEW after losing her job due to Covid.

6 Q But during this group text, she was participating as an
7 employee of the IBEW, right?

8 A Yes, yeah. Yeah.

9 MR. HAASE: No other questions.

10 HEARING OFFICER CHOLEWA: Thank you. Ms. Hartley,
11 would you care to recross?

12 MS. HARTLEY: No, nothing for me.

13 HEARING OFFICER CHOLEWA: All right. Thank you very
14 much. Ms. Laskonis, I am going to remind you that we are
15 under sequestration, so please do not discuss your testimony
16 with any other witness until the hearing is completed. I am
17 going to put you back into a breakout room. Thank you very
18 much.

19 THE WITNESS: Thank you.

20 *(Witness excused)*

21 MR. HAASE: Aaron, can we get that exhibit off the
22 screen? Thank you.

23 HEARING OFFICER CHOLEWA: So it's not letting me --
24 there we go. Thank you very much. Okay, can we go off
25 record for a second, please?

1 (Off the record)

2 HEARING OFFICER CHOLEWA: Thank you. Okay, Mr. Haase,
3 please call your next witness.

4 MR. HAASE: At this point, we rest our case subject to
5 any rebuttal.

6 HEARING OFFICER CHOLEWA: Okay. Ms. Hartley, would
7 you like to call your first witness?

8 MS. HARTLEY: Okay. Well, I mean could I have time
9 because I want to make sure that I -- like I said, I thought
10 we were going to have more witnesses, and I wasn't prepared
11 to -- can I just have a few minutes?

12 HEARING OFFICER CHOLEWA: Yes. Let's go off the
13 record.

14 (Off the record)

15 HEARING OFFICER CHOLEWA: Okay. Ms. Hartley, do you
16 want to call a witness?

17 MS. HARTLEY: Yes. I'm going to call Brianna Crea. I
18 may be pronouncing that wrong. And I think she hopefully
19 should be maybe in a waiting room.

20 HEARING OFFICER CHOLEWA: Yes, she is.

21 MS. HARTLEY: And I think also Bob Cushner might be in
22 a waiting room. He was just an IBEW representative who was
23 going to observe. He was trying to get in earlier, and I'm
24 not sure --

25 HEARING OFFICER CHOLEWA: Okay. He's not a witness,

1 he's just an observer?

2 MS. HARTLEY: No, no, he's not a witness, just an
3 observer.

4 HEARING OFFICER CHOLEWA: Okay. I'm letting him in as
5 we speak.

6 MS. HARTLEY: Thank you.

7 HEARING OFFICER CHOLEWA: Hi, Brianna. How are you
8 doing today? If you could unmute yourself, please.

9 THE WITNESS: I'm doing okay. How about you?

10 HEARING OFFICER CHOLEWA: I'm doing well, thank you.
11 I'm just going to give you a couple of instructions, and
12 then we'll get you started.

13 I am going to ask that you speak clearly and always
14 answer either with a yes or no or however you want an answer
15 just so the information is clear for the court reporter.

16 Can I have you raise your right hand, please?

17 (Whereupon,

18 **BRIANNA CREA**

19 having been sworn/affirmed, was called as a witness herein
20 via Zoom, and was examined and testified as follows.)

21 HEARING OFFICER CHOLEWA: Can you say and spell your
22 name, please?

23 THE WITNESS: Brianna Crea, B-r-i-a-n-n-a, C-r-e-a.

24 HEARING OFFICER CHOLEWA: Okay, thank you. Okay, Ms.
25 Hartley, will you please proceed?

1 MS. HARTLEY: Okay. Thank you.

2 **DIRECT EXAMINATION**

3 Q BY MS. HARTLEY: Hi, Brianna. Jill Hartley. I'm in
4 the conference room here with a few other representatives.
5 Hopefully you can find me on the screen there.

6 A I can see you.

7 Q Okay, perfect. A few questions for you. Let's start
8 by who are you currently employed by?

9 A I work for Andersen Windows.

10 Q And how long have you worked there?

11 A About three months or around that.

12 Q And prior to working for Andersen Windows, did you work
13 for Colectivo?

14 A Yes.

15 Q When did you start with Colectivo?

16 A I want to say 2015. There were two separate periods of
17 employment because I had a pregnancy.

18 Q Okay. And the most recent period of employment with
19 Colectivo, when did that end?

20 A The end of July. No, I'm sorry. The end of June.

21 Q Of 2021?

22 A Yes, 2021.

23 Q Okay. And how did your employment end?

24 A I gave them a two-week notice because I was moving out
25 of state.

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1 Q Moving out of state. Okay. And you moved to
2 Minnesota. Is that correct?

3 A Correct.

4 Q Okay. And prior to leaving in June approximately of
5 2021, what position did you have?

6 A I had both worked in the café at the Humboldt location,
7 and I also worked in the warehouse at the Humboldt location.

8 Q Was that at the same time or were you in one position
9 and then moved to the other?

10 A They were overlapping. I started in the café and then
11 there was an overlap between café and warehouse, and then
12 when the pandemic hit, I was in the warehouse.

13 Q Okay. And you're familiar with the union campaign and
14 election process, correct?

15 A Yes.

16 Q And so thinking back to March of -- when the ballots
17 were sent out, March of this year, were you in the café or
18 the warehouse at that time?

19 A The warehouse.

20 Q All right. And the warehouse is at Humboldt as well.
21 Is that correct?

22 A Correct.

23 Q All right. Did you, during the course of the election
24 campaign, have some role in the union process?

25 A Just -- I was one of the VOCs, Voluntary Organization

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1 Committee.

2 Q Okay. And when did you kind of start in that role?

3 A I was kind of there from the beginning.

4 Q Beginning meaning prior to when a petition may have
5 been filed?

6 A Yeah. From the beginning of like organizing.

7 Q Okay. And I'm going to show you a document I'm going
8 to share on my screen here with you and have some questions
9 for you about it. So let me find what I'm looking for here.
10 You'd think I'd faster with this since we've been at this
11 most of today, but apparently, it's not taking with me.
12 Here we go. All right.

13 Brianna, I've put on the screen Employer's Exhibit 12,
14 and I'm trying to scroll up to the top here, and I'm going
15 to have some questions for you. Can you see the screen
16 okay?

17 A Yep.

18 Q All right. So I'm just going to kind of scroll through
19 the first two pages here. There are some exchanges here,
20 and I see the name Brianna. And take whatever time you need
21 to kind of look through it, but can you tell me once you've
22 done that if you recognize this?

23 A Yeah, I do. I remember this.

24 Q And do you know where these posts or this conversation
25 would have taken place?

1 A This was in one of our group chats, I think.

2 Q Okay. And who was involved in that group chat, or who
3 would have been part of that group chat?

4 A The VOC and the IBEW people.

5 Q Okay. And up at the top there, the first entry says
6 Brianna and then it says, "My yes vote literally can't get
7 in the building", and it goes on from there. Is that --
8 would that -- with regard to that entry specifically, is
9 that something that you wrote in this group chat?

10 A Yes, it is.

11 Q And so each entry after that that says Brianna on top,
12 are those also things that you wrote in the group chat?

13 A Yes.

14 Q All right. And then there is also another name that we
15 can see on the first page, and I'm going to try to -- I
16 think it's a little small there. I think that's all of the
17 text. The name Zoe appears. Do you see that?

18 A Yes.

19 Q And do you know, do you recall who that Zoe was who was
20 responding to your entries?

21 A Yes.

22 Q And who was that?

23 A I think there's only the one Zoe in the group chat. I
24 can't tell you her last name off the top of my head.

25 Q Okay. Was she a member of the VOC at this time, do you

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1 know?

2 A Yes.

3 Q Okay. And so we can see a date of March 30th, 2021,
4 2:22 p.m. below one of your entries. Do you see it there?
5 Kind of a third of the way down the page?

6 A Yes.

7 Q Do you have a recollection if that's the date that this
8 conversation was taking place?

9 A I can't be sure.

10 Q Okay. And by reviewing this document, do you have a
11 recollection of this particular situation and why you were
12 writing in the group chat?

13 A Yes.

14 Q Describe for me what was going on. What prompted you
15 to send out your initial message?

16 A One of my coworkers in the warehouse reached out to me
17 because he wanted to turn his ballot in and he knew it was
18 the last day because I had been shooting reminders to all my
19 friends that week telling them, and he reached out to me
20 like where am I supposed to go, and I think I sent him the
21 information. But then he for some reason couldn't find the
22 correct entrance of the building, and so he reached out to
23 me again like how do I get in, and I was like I don't know.
24 Walk around the block. And so I reached out to the VOC
25 group to see if anybody had been to the NRLB before and had

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1 like knowledge of which street he had to be on or which
2 door.

3 Q Okay. How did your coworker originally reach out to
4 you? Was that through some sort of a text message or was it
5 a phone call? What do you remember about that?

6 A He reached out to me through a text, and then I think
7 we had a short phone call.

8 Q Okay. Did you meet with him in person at any point on
9 that date?

10 A No. Well, no. We had worked later together after this
11 had happened.

12 Q He was another warehouse employee at the time?

13 A Yes.

14 Q Okay. And so did you give him any assistance in
15 completing his ballot at all?

16 A No.

17 Q Did you ever handle his ballot for him?

18 A No.

19 Q That first entry up at the top of this page, Employer's
20 Exhibit 12, page 1, you say, "My yes vote literally can't
21 get in the building to drop off his ballot, and he's running
22 out of patience. Can anyone call and help." Correct?

23 A Yes.

24 Q What did you mean my yes vote?

25 A We had talked about the union before, and he was a

1 strong supporter. It was my assumption, I guess, that he
2 was a yes, but I don't know for sure.

3 Q And when you say we had talked about the union, you're
4 talking about this particular coworker who reached out to
5 you?

6 A Yes.

7 Q All right. And so when you said my yes vote, did you
8 mean you had completed his ballot for him and marked yes?

9 A No.

10 Q And can't get in the building, is that a reference to
11 the NLRB's office?

12 A The place where the late ballots were meant to be
13 dropped off, yes.

14 Q Okay. All right. And so I think you indicated
15 originally there was -- you provided him with the address
16 for the building. Is that correct?

17 A I thought the address had been included on the ballot,
18 but I know that we also had people pull up that information
19 just in case, and people weren't able to send the ballots by
20 the postmark deadline, so I might have pulled that off of
21 one of the Facebook pages or from an instant message.

22 Q Okay. And so what do you recall providing to him as a
23 means to drop off the ballot?

24 A I remember telling him that it was a building downtown.
25 I think when we spoke on the phone I suggested he try other

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1 doors or ask somebody inside for help. I think there was
2 like a restaurant down there that he brought my (inaudible-
3 File 14-11:58), so I advised him to help and they said they
4 didn't know. So then I reached out to the VOC.

5 Q Okay. And so when you typed that initial question up
6 at the top there, had you had a phone conversation with this
7 individual as well?

8 A I can't be sure. Are you talking about the person or
9 Zoe?

10 Q Yeah, no. The person, the coworker who was trying to
11 drop off the ballot.

12 A I can't be sure if it happened before or after this
13 exchange in the group chat.

14 Q Okay. All right. And then you -- we see a response
15 from Zoe and then below Zoe are two lines there you say,
16 "Okay, he tried calling as well", correct?

17 A Yes.

18 Q And is that reference to this coworker?

19 A Yes.

20 Q Do you know where he tried calling?

21 A The number that came with the NLRB information.

22 Q Okay. And then it looks like Zoe indicated she was on
23 the phone with them now. Did you know who she was referring
24 to?

25 A I can only assume she meant the NLRB. That was my

1 assumption based on our conversation.

2 Q Okay.

3 A Or the specific office, sorry.

4 Q Okay. Understood. I apologize for interrupting you
5 there.

6 And then it looks like she asked if they got let in,
7 and it looks like you responded, "No, he had to leave for
8 home to change", do you see that?

9 A Uh-huh.

10 Q What was going on at that point? What was the basis of
11 our statement there?

12 A He had let me know that he had given up and he had to
13 go home to change before work.

14 Q Okay. And then did you have some additional
15 conversation with him about dropping it off?

16 A I think I just communicated with (inaudible), and I
17 think -- I can't be positive, but I don't think I spoke with
18 him until we saw each other later at work.

19 Q Okay. All right. And then I'm showing you page two of
20 Employer's Exhibit 12, and it looks like you and Zoe's
21 conversation continues, correct?

22 A Yeah.

23 Q And then about three lines up for the bottom I see an
24 entry from you that says, "Forgot to update. Both ballots
25 got turned in on time".

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1 A Correct.

2 Q And what was -- that looks like that would have been
3 sent that same day. Is that correct?

4 A Yes.

5 Q Okay. March 30th?

6 A I think so.

7 Q Okay. And what were you communicating there? What
8 information had you gotten?

9 A I think, and I'm not certain, but I think another
10 coworker of mine also had to drop their ballot off at the
11 NLRB, which is why I said both ballots, but I can't be
12 positive right now.

13 Q Okay. And how did you find out that the ballots got
14 turned in on time, both ballots?

15 A They would have told me, or I mean it would have just
16 come up in conversation.

17 Q Meaning the coworkers that you had spoken with?

18 A Yes.

19 Q Okay. Were you present with any coworker when they
20 hand delivered a ballot to the NLRB?

21 A No.

22 Q And did you assist any coworker in actually completing
23 their ballot and marking a yes or a no box?

24 A No.

25 Q You mentioned earlier that you were shooting reminders

1 to coworkers, and I believe you indicated that was about the
2 upcoming deadline. Is that correct?

3 A Yes.

4 Q How were you doing that?

5 A I think almost entirely verbally because I saw all the
6 people that I wanted to communicate in person. Just a
7 reminder if they hadn't sent their ballot that the deadline
8 was coming up if they wanted to do so. And then if they had
9 any questions, they could come to me if they needed help
10 with it.

11 Q Help with what?

12 A Like the postmark date or finding the office to drop it
13 off. The deadline -- to get it postmarked was shorter than
14 what we thought it was, so I think a little bit of
15 miscommunication.

16 Q Okay. And did any of your coworkers other than what
17 we've seen here and that you testified to regarding this
18 coworker reach out to you for any assistance on dropping off
19 their ballot?

20 A No. This was the only time.

21 Q Or did anyone reach out to you with any other questions
22 that you recall related to a ballot or dropping it off or
23 anything?

24 A No, that was the only time.

25 Q Okay. All right. Brianna, did you -- are you familiar

1 with the term Social Saturdays?

2 A Yes.

3 Q Let me just get this -- okay. And what is your
4 knowledge of Social Saturdays?

5 A They were intended like a less intense and more
6 pressure free way to join the VOC and get more information
7 about the union if they wanted it. We advertised it on our
8 various social medias, and we invited people that we saw.

9 Q Okay. Did you attend Social Saturdays?

10 A Yes.

11 Q And were those all held virtually to your recollection?

12 A Yes.

13 Q Do you know the timeframe that those were held over?

14 A I can't be sure. I think maybe it started in the fall
15 of 2021.

16 Q And how long did they go on for that you know of?

17 A In 2020, not 2021.

18 Q Okay. I gotcha.

19 A They went up until this summer, I think.

20 Q The summer of 2021?

21 A Yes.

22 Q Okay. And were they going on during the course of the
23 time that ballots were out and employees would be getting
24 those in the mail?

25 A I think so, yes.

1 Q Did you attend all of the Social Saturdays?

2 A No.

3 Q How many would you say? Do you have any idea how many
4 you missed?

5 A A handful.

6 Q And of those that you did attend, who typically would
7 be in attendance as well?

8 A Usually one or more the IBEW people. Do you want me to
9 list them by name?

10 Q Sure.

11 A Lynn, Kim, Joe, Todd, and I'm thinking of the other
12 person. Dean. And then various VOC people depending on
13 their schedules.

14 Q Other than IBEW employee representative and VOC
15 members, were there any other individuals in attendance at
16 any of the Social Saturdays that you participated in?

17 A Yes. We had people from other coffee shops or like
18 industries who were trying to organize come in a speak to
19 us. At least two occasions that I can recall. And we also
20 had a Senator from Illinois.

21 Q Okay. Do you recall on any of the Social Saturdays
22 that you attended any other -- any coworkers who were not
23 VOC members participating?

24 A I can't like definitively recall, but I feel like there
25 were at least a couple. Not very many.

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1 Q Okay. Were there ever any occasions on Social
2 Saturdays that you attended where there was discussion about
3 completing ballots once they had been sent out or even
4 before?

5 A Only talking about like waiting for our ballots and
6 filling them out and needing our vote. And then we were
7 reminding coworkers to fill out their ballot. I think
8 gathering information for like the postmark date was the
9 latest date and then information for drop offs if they
10 missed the postmark date.

11 Q Okay. Was there ever any -- did you receive a ballot,
12 an actual ballot just laid on the screen during a Social
13 Saturday?

14 A I know that I saw a photo of someone's ballot when the
15 got it. They showed the postage side just to say, hey, I
16 got my ballot, and I filled it out, but I don't recall ever
17 seeing it like in the meeting on camera.

18 Q Okay. When you say you saw a picture of someone's
19 ballot and the postage, are you talking about the envelope
20 or the actual ballot itself?

21 A No, the outside envelope.

22 Q Okay. What about an actual ballot itself? Did you --
23 were those ever displayed on the screen?

24 A I don't think so. I can't recall.

25 Q Do you -- did you ever see anyone else's ballot other

1 than your own that you recall?

2 A In person, I don't think so.

3 Q Did you ever handle anybody else's ballot?

4 A No.

5 Q Was there ever any discussion during those Social
6 Saturdays about mailing ballots other than, you know, like
7 you mentioned the postmark dates or addresses?

8 A Just making sure that we had up-to-date information and
9 making sure that we communicated that information to our
10 coworkers. That was --

11 Q Communicated what information to coworkers?

12 A The post date, and then the alternative if they didn't
13 meet the deadline.

14 Q Okay. And what alternatives were those?

15 A Dropping it off at the local NLRB office.

16 Q Okay. All right. I'm going to share my screen and
17 show you one other document here. This is going to be
18 Union's Exhibit 7 if I can find it. All right, Brianna.
19 Give me a second while I scroll up to the top here.

20 This is Union's Exhibit 7. And do you -- does this
21 look familiar to you, at least this first page here?

22 A Not particularly.

23 Q Okay. Do you see where it says Brianna up at the top
24 above that first message?

25 A Uh-huh.

1 Q Yes?

2 A Yes, I do.

3 Q Okay. Do you know whether that's a message that you
4 sent?

5 A I can't be 100 percent certain, but I think it probably
6 is asking for clarification on the last day of mailing.

7 Q Okay. And I'm going to scroll down to page 4 on
8 Union's Exhibit 7. And before I ask you specifically about
9 that, do you recall having some interaction with Joe
10 DiMichele at the IBEW regarding whether or not employees
11 could hand deliver ballots?

12 A This is kind of familiar now that I'm reading it.

13 Q Okay. Do you see on page 4 of Union's Exhibit 7
14 there's an entry for Brianna? That's the second up from the
15 bottom. It says, "Yeah, I want to ask why we didn't do a
16 collection drive". Do you see that?

17 A Uh-huh.

18 Q Is that a yes? You've got to make sure you answer --

19 A I'm sorry. Yes, I see that.

20 Q No problem. Does that refresh your memory? Does that
21 -- do you have any recollection of that being your post or
22 your message?

23 A I honestly, I still don't, but it does look like
24 something I would type.

25 Q Okay. Do you remember any conversation with someone

1 asking about a collection drive?

2 A I don't. I'm sorry.

3 Q Okay. No worries. Okay. I think that's all the
4 questions I have for you at this point, Brianna, but Mr.
5 Haase will have some for you now.

6 HEARING OFFICER CHOLEWA: Mr. Haase, would you like to
7 cross?

8 MR. HAASE: Yes, thank you.

9 **CROSS-EXAMINATION**

10 Q BY MR. HAASE: Hi, Brianna. My name is John Haase. I
11 am the lawyer for Colectivo in this matter. Do you mind if
12 I call you Brianna?

13 A That's fine.

14 Q Okay. Thank you.

15 MR. HAASE: Aaron, could you bring up Employer's
16 Exhibit No. 12, please? And just scroll up to the top of
17 page 1.

18 Q BY MR. HAASE: Okay. Brianna, I know you've answered
19 several questions about this, so I'll try to be succinct
20 here.

21 At the top of this message where you wrote, "My yes
22 vote", you're referring to another employee of Colectivo,
23 correct?

24 A Yes.

25 Q And this was someone who had the opportunity to vote in

1 the union election?

2 A Yes.

3 Q And the reason you referred to him as your yes vote is
4 because you knew from statements he made to you that he was
5 going to vote yes?

6 A I assumed from statements he made to me that he would
7 vote yes.

8 Q Now it sounded like prior to this text message that you
9 sent that you had been communicating with coworkers at the
10 Humboldt warehouse about the ballot processing and making
11 sure that they got their ballots in. Is that correct?

12 A Yes.

13 Q And were you doing that on a regular basis?

14 A Not like weekly checkup reminders. Just like, hey,
15 don't forget to send your ballot once the time period for
16 receiving and sending ballots happened.

17 Q What was the frequency that you were talking to
18 coworkers at the warehouse about the balloting process?

19 A Not super frequent because I wasn't trying to be
20 annoying. I was just trying to give a gentle reminder.
21 About as often as I would remind them to vote in a local
22 election.

23 Q And at the time you were having those discussions, you
24 were a member of the VOC?

25 A Yes.

1 Q This situation with the voter that is referred to at
2 the top of Employer's Exhibit No. 12, so if I'm
3 understanding this scenario correctly this individual was
4 trying on the last day of voting to hand deliver his ballot.

5 A Yes.

6 Q And when the voter was having trouble with that
7 process, he called you to find out what to do about it. Is
8 that correct?

9 A Yes.

10 Q Why do you think that the voter called you?

11 A Because I was his point of contact for the VOC.

12 Q Were there exchanges you had with this voter prior to
13 this event on March 30th where you suggested that you would
14 be an individual who could help with the issue of ballots
15 and getting them submitted?

16 A Yes, in terms of all union stuff. I let my coworkers
17 know that if they had questions, they could come to me.

18 Q All right. How many -- what were the number of
19 coworkers that you were having those discussions with that
20 if they had questions about ballots, they could come to you?
21 How many individuals were included in those discussions?

22 A Four or five maybe.

23 Q And then in turn, if you had questions, you might reach
24 out to other members of the VOC or other members of the
25 International Brotherhood of Electrical Workers, correct?

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1 A Yes.

2 Q Also on this exhibit there's an individual named Zoe.

3 A prior witness testified that at the time of this text
4 exchange Zoe worked for the International Brotherhood of
5 Electrical Workers. Do you have any information to
6 contradict that testimony?

7 A No.

8 Q And you can't remember Zoe's last name, right?

9 A I think it starts with an M, Muellner.

10 MR. HAASE: Aaron, you can take that exhibit down.

11 Q BY MR. HAASE: Just a couple of more questions for
12 you, Brianna.

13 With respect to the Social Saturdays, I think you
14 mentioned that there were Social Saturdays or the topic of
15 ballots were discussed, correct?

16 A Yes.

17 Q And those Social Saturdays occurred during the period
18 of time after the ballots had been sent by the NLRB but
19 before they were due, correct?

20 A Probably.

21 Q Because it wouldn't make any sense to have those
22 discussions before the ballots had been sent out to voters,
23 right?

24 A I mean I can't say for sure that we didn't discuss like
25 the upcoming ballots being sent out before that.

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1 Q Do you have a specific recollection that after the
2 ballots were sent out there were Social Saturday meetings
3 with the people you described previously where the ballots
4 were discussed?

5 A Yes.

6 MR. HAASE: No other questions. Thank you.

7 HEARING OFFICER CHOLEWA: Thank you. Ms. Hartley, do
8 you want to redirect?

9 MS. HARTLEY: Yes.

10 **REDIRECT EXAMINATION**

11 Q BY MS. HARTLEY: Brianna, with regard to that question
12 that you were just asked about ballots being discussed, I
13 guess what topics, just so we're clear, were discussed
14 during Social Saturdays regarding ballots?

15 A How to gently remind your coworkers to fill in their
16 ballot, where to send -- if people were confused about how
17 to send something, then the postmark date was the last day
18 they could send it to have it be counted, and the
19 alternative if they missed the deadline to drop it off at
20 their local NLRB office.

21 Q What do you mean how to gently remind your coworkers to
22 mark it? Is that what you said?

23 A No, to send their ballots.

24 Q Okay. Like you were having discussions about ways to
25 approach your coworkers about sending ballots? Is that what

1 you're saying?

2 A I think so, yes.

3 Q Okay. I mean I'm not trying to put words in your
4 mouth. I'm just trying to understand what you mean by
5 gently remind.

6 A We've tried very consciously through our work to be as
7 aware of our coworkers and their feelings and their
8 boundaries, and so discussion of how to approach our
9 coworkers about various topics without crossing -- like we
10 have legal boundaries obviously, but also like social
11 boundaries and their personal boundaries had been the topic
12 of conversation quite a few times.

13 Q Okay. And with regard to submission of ballots, did
14 you -- other than what you've described in providing like a
15 reminder about when a ballot needed to be returned or where
16 -- we talked about you providing an address for the NLRB
17 office I believe as well, correct?

18 A Correct.

19 Q Other than those, did you ever have discussions with
20 your coworkers in which you offered to submit their ballot
21 for them?

22 A No.

23 Q Or in which anybody ever asked you to take control of
24 their ballot for them?

25 A No.

1 Q Did you ever handle anybody else's ballot other than
2 your own?

3 A No.

4 Q Was there any discussion during Social Saturdays
5 regarding how ballots had to be handled that you recall?

6 A Well, not that I recall specifically, but I think they
7 probably mentioned like the instructions on the outside of
8 the envelope are important to follow.

9 Q Were what?

10 A Important to follow.

11 Q Oh, okay. Sorry I missed -- you cut out there a little
12 bit for me. Okay.

13 Was there any discussion during those Social Saturdays
14 regarding who could handle a ballot?

15 A Yes, only the voters were allowed to handle their own
16 ballot.

17 Q Okay.

18 MS. HARTLEY: Okay. I think that's all I have.

19 HEARING OFFICER CHOLEWA: Thank you. All right. Mr.
20 Haase, would you like to recross?

21 MR. HAASE: I would.

22 **RECROSS EXAMINATION**

23 Q BY MR. HAASE: If this Social Saturday discussion
24 stated that only the voter could handle their own ballot,
25 why was it in Union's Exhibit No. 7 those text messages on

1 March 30th that you were asking that question of an IBEW
2 representative? Do you know?

3 A Can you show me?

4 MR. HAASE: Aaron, can you pull up that exhibit which
5 Jill emailed to us? It's Union's Exhibit No. 7, page 5.
6 Bear with me. I'm sorry. It's page 4.

7 Q BY MR. HAASE: So, Brianna, do you see about in the
8 middle of the page there's a text from Joe that starts, "For
9 those who want to hand deliver ballots"? Do you see that?

10 A Yes.

11 Q And do you know who the Joe is who is participating in
12 this text string?

13 A One of the IBEW people.

14 Q Okay. And Joe mentions that the ballots have to be
15 delivered by the voter. Other voters cannot handle the
16 ballots, correct?

17 A Yes.

18 Q And he's texting that message to you?

19 A It's in a group chat. It's to everyone.

20 Q You definitely responded to his message though,
21 correct?

22 A Yes.

23 Q Okay And then if you go to the top of this page, you
24 would agree that this discussion happened on or about March
25 30th, 2021, right?

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1 A Sure.

2 Q Okay.

3 MR. HAASE: No other questions.

4 HEARING OFFICER CHOLEWA: Thank you. Ms. Hartley,
5 would you like to redirect?

6 MS. HARTLEY: Yeah.

7 **REDIRECT EXAMINATION**

8 Q BY MS. HARTLEY: Brianna, I'm going to actually pull
9 that document back up again, Union's Exhibit 7. And I'm
10 going to go back to that page 4 that we just looked at. Can
11 you see that on the screen again?

12 A Yes.

13 Q All right. And below Joe's entry there your response
14 or at least a response by Brianna, is that yours do you
15 believe?

16 A Yes.

17 Q Okay. Were there any other Brianna's in the VOC group
18 chat?

19 A No.

20 Q All right. You say, "Yeah, one asked why we didn't do
21 a collection drive, and I was like, "I assume that's because
22 they will say we cheated", correct?

23 A Correct.

24 Q All right. And so it sounds to me as though you
25 understood at this point that the ballots had to be

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1 delivered by the voter, didn't you?

2 MR. HAASE: Objection. Leading.

3 HEARING OFFICER CHOLEWA: Ms. Hartley, do you -- or
4 I'm sorry. Mr. Haase, would you state your position?

5 MS. HARTLEY: Yes. The opposing counsel has been
6 asking a series of leading questions of her own witness
7 which I have allowed to let go, but the last one in my mind
8 crossed the line because it's putting testimony in the
9 witness' mouth, so I would object as a leading question.

10 HEARING OFFICER CHOLEWA: Ms. Hartley, would you like
11 to respond?

12 MS. HARTLEY: Sure. I'll just rephrase the question.

13 Q BY MS. HARTLEY: Brianna, did you know as of this
14 conversation before Mr. DiMichele responded to the VOC who
15 was entitled to handle a voter's ballot?

16 A Yes.

17 Q And what was your understanding?

18 A That only the voter themselves could handle their own
19 ballot.

20 Q And how did you have that information or where did you
21 get that information from?

22 A I think we had discussed it as ballots were being sent
23 out that only the voter can touch their own ballot because
24 we understood that it was very serious and important to
25 integrity, but not -- that it had as much integrity as

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1 possible for this vote.

2 Q Okay. And when you say we discussed it, who are you
3 referring to?

4 A The VOC and the IBEW.

5 Q Do you remember communicating that information to any
6 of your coworkers during the course of the ballot process?

7 A Yes.

8 Q How did you do that?

9 A Verbally. Just make sure you're the only one opening
10 your ballot, you're the one who sealed it, and you're the
11 one who sent it. Only you. You can't have your roommate
12 mail it or anything like that.

13 Q Okay. And is that information that you personally
14 provided to coworkers?

15 A Yes, verbally.

16 Q Okay. And are we talking about warehouse coworkers at
17 the Humboldt location?

18 A Yes.

19 Q Would there have been any others other than those
20 individuals?

21 A Possibly café staff in passing, possibly drivers or
22 anybody who I knew was eligible to vote. I would have
23 possibly have mentioned it to them

24 Q Okay. Other than communicating that information
25 verbally, would you have ever put anything like that out on

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1 social media that you recall like a Facebook page?

2 A Not that I recall. I might have shared things that the
3 VOC created about voting to help inform our coworkers, but I
4 don't recall creating anything myself.

5 Q Okay. Do you recall the VOC creating any posts for
6 social media that referred to who could handle a ballot?

7 A I think it was included in our Instagram posts, which
8 was shared (inaudible).

9 Q Okay. All right. I'm going to take this down, and I'm
10 going to show you a different document. Give me one second
11 here to find it.

12 Can you see a document on the screen right now,
13 Brianna, or no?

14 A No.

15 Q Okay. My apologies. I'm having some trouble finding
16 the right one here on my screen.

17 HEARING OFFICER CHOLEWA: It does seem like we might
18 be going a little bit beyond cross. How much more do you
19 have?

20 MS. HARTLEY: Okay. That's fine. I think I can be
21 done especially since I can't find the right document.
22 That's all we have. I'll put us all out of my misery.

23 HEARING OFFICER CHOLEWA: Mr. Haase, did you have any
24 recross?

25 MR. HAASE: No.

1 HEARING OFFICER CHOLEWA: Okay. Thank you very much.
2 At this point I'm going to put you back into a breakout
3 room, and I will remind you not to discuss your testimony
4 with any other witness until the hearing is completed. So
5 thank you very much. One moment. All right. There we go.
6 *(Witness excused)*

7 Ms. Hartley, do you have another witness to call?

8 MS. HARTLEY: No. The Union rests.

9 HEARING OFFICER CHOLEWA: All right. Mr. Haase, do
10 you have a rebuttal witness?

11 MR. HAASE: No, we don't.

12 HEARING OFFICER CHOLEWA: Okay. The parties are
13 advised that upon request any party is entitled to a
14 reasonable period at the close of the hearing for oral
15 argument. Any party desiring to submit a brief to the
16 Hearing Officer shall be entitled to do so withing five
17 business days after the close of the hearing. Copies of the
18 brief shall be served on all parties to the proceeding, and
19 a statement of such service shall be filed together with the
20 brief.

21 Does anyone wish to provide oral arguments?

22 MR. HAASE: The Employer will not. We will provide a
23 brief.

24 MS. HARTLEY: The Union will provide a brief.

25 HEARING OFFICER CHOLEWA: Okay. So that answers that

1 question. Neither party would wish to waive the filing of
2 post-hearing briefs, so the parties are reminded that
3 pursuant to Section 102.5 of the Board's Rules and
4 Regulations briefs and other case documents must be filed
5 electronically submitting e-filing through the Agency's
6 website which is www.NLRB.gov. unless the party filing the
7 document does not have access to the means for filing
8 electronically or if filing electronically would pose an
9 undue burden.

10 Briefs or other documents filed by means other than e-
11 filing must be accompanied by a statement explaining why the
12 filing party does not have access to the means for filing
13 electronically or filing electronically would post an undue
14 burden.

15 Filing of briefs or other documents electronically may
16 be accomplished by using the e-filing system on the Agency's
17 website at www.NLRB.gov. Once the website is accessed,
18 click on e-file documents, enter the NLRB case number, and
19 follow the detailed instructions.

20 The responsibility for the receipt of the documents
21 rests exclusively with the sender. A failure to timely file
22 the brief will not be excused on the basis of the
23 transmission could not be accomplished because the Agency's
24 website was offline or unavailable for some other reason.
25 After a determination of technical failure of the site with

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1 notice of such (inaudible) website, as such, briefs will be
2 due on October 6th, 2021.

3 If there is nothing further, the hearing will be
4 closed. Okay. Let's go off the record really quickly.

5 *(Off the record)*

6 HEARING OFFICER CHOLEWA: The hearing is now closed.

7 *(Whereupon, the hearing was closed at 3:28 p.m.)*

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CERTIFICATION

This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), in the matter of **COLECTIVO COFFEE ROASTERS v. INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL UNIONS 494 & 1220, 18-RC-272212**, on Wednesday, the 29th day of September, 2021, was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the recording, at the hearing, that the exhibits are complete and no exhibits received in evidence or in the rejected exhibit files are missing.

David Molinaro

Dave Molinaro, Court Reporter